

KEARNS CITY COUNCIL

ORDINANCE NO. 2026-O-18

DATE: October 5, 2026

AN ORDINANCE OF THE KEARNS CITY COUNCIL RESTATING TITLE 1 (GENERAL PROVISIONS, TITLE 2 (ADMINISTRATION AND PERSONNEL, AND TITLE 3 (REVENUE AND FINANCE) OF THE KEARNS MUNICIPAL CODE; CODIFYING THE CITY'S PERSONNEL POLICY AS CHAPTER 2.16; AND CODIFYING THE CITY'S PROCUREMENT POLICY AS CHAPTER 3.16

WHEREAS, the City of Kearns ("Kearns") incorporated as a metro township on January 1, 2017, and adopted the entire Salt Lake County Code in effect at the time of its incorporation pursuant to Utah Code § Subsection 10-2a-414(3), which H.B. 35 repealed in 2024; and

WHEREAS, during the 2024 legislative session, the Utah Legislature enacted H.B. 35, which converted the metro townships into cities or towns based on their 2020 census population numbers and made the conversion effective on May 1, 2024; and

WHEREAS, on May 1, 2024, Kearns became a city of the third class pursuant to Utah Code § 10-2-301(2)(c); and

WHEREAS, Kearns has the authority to exercise general powers as provided in Utah Code, Title 10, Chapter 8, Part 1, Powers and Duties of Municipalities, to encourage conformity and promote ease for residents and staff to interpret and implement the Kearns Municipal Code, and to promote the health, safety, general welfare, and prosperity of the City and its inhabitants as provided in Utah Code §§ 10-8-2, 10-8-84, and 10-9a-102; and

WHEREAS, Kearns is empowered and has the authority to revise, codify and compile from time to time and to publish in book, pamphlet or looseleaf form all ordinances of the municipality of a general and permanent character and to make such changes, alterations, modifications, additions, and substitutions therein as it may deem best to the end that a complete simplified code of the ordinances then enforced shall be presented, but with errors, inconsistencies, repetitions, and ambiguities therein eliminated pursuant to Utah Code §10-3-707; and

WHEREAS, the Kearns City Council ("Council") has revised and updated several provisions within Title 1 (General Provisions), Title 2 (Administration and Personnel), and Title 3 (Revenue and Finance), but desires to do a comprehensive restatement of these titles to fully repeal the remaining county code provisions within these titles; and

WHEREAS, the Council desires to update and codify its personnel policy (Resolution R2025-08) as Chapter 2.16 of the restated Title 1 and its purchasing policy (Resolution R2026-07) as Chapter 3.16 within the restated Title 2; and

WHEREAS, Kearns shall provide that all ordinances then enforced shall continue in force after the revision, codification, and compilation for the purpose of all rights acquired, fines,

penalties, forfeitures, and liabilities incurred, and actions therefor as provided in Utah Code § 10-3-709; and

WHEREAS, Kearns has the specific authority to impose criminal and civil penalties pursuant to Utah Code § 10-3-703; and

WHEREAS, Kearns has the specific authority to adopt an ordinance establishing administrative proceedings pursuant to Utah Code § 10-3-703.7; and

WHEREAS, Kearns has the specific authority to enact provisions regarding the abatement of nuisances pursuant to Utah Code §§ 10-8-60; and

WHEREAS, Kearns has the general authority to regulate offenses against public health, safety, welfare, and morals unless the right to regulate is reserved to the state; and

WHEREAS, Kearns is required to comply with state code and the state legislative mandates from time to time that cities enact specific provisions; and

WHEREAS, To the extent possible, the state code provisions shall be included in this enactment.

NOW, THEREFORE, IT IS HEREBY ORDAINED BY THE KEARNS CITY COUNCIL AS FOLLOWS:

1. Enactment:

- a. Title 1, General Provisions, of the Kearns Municipal Code is repealed and enacted in its entirety with the ordinance attached hereto as **Exhibit A**;
- b. Title 2, Administration and Personnel, of the Kearns Municipal Code is repealed and enacted in its entirety with the ordinance attached hereto as **Exhibit B**; and
- c. Title 3, Revenue and Finance, of the Kearns Municipal Code is repealed and enacted in its entirety with the ordinance attached hereto as **Exhibit C**.

2. Repeal:

- a. Resolution R2025-08 is repealed in its entirety; and
- b. Resolution R2026-07 is repealed in its entirety.

3. Severability: If a court of competent jurisdiction determines that any part of this ordinance is unconstitutional or invalid, then such portion of this ordinance, or specific application of this ordinance, shall be severed from the remainder, which shall continue in full force and effect.

4. Direction to Mayor and Staff: The City Administrator and staff are authorized and directed to take such steps as may be needed: (a) for this ordinance to become effective under Utah law, including but not limited to compliance with the requirements of Utah Code § 10-3-711; and (b) to finalize and post the ordinance to Municode, including but not limited to making non-substantive edits to correct any scrivener's, formatting, and numbering errors.

5. Retroactive effect. A provision of the Kearns Municipal Code is not retroactive, unless the provision is expressly declared to be retroactive.

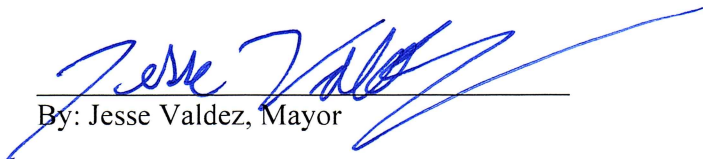
6. Effect of Repeal. The repeal of a provision in the Kearns Municipal Code does not revive a city code provision which the City inherited from Salt Lake County on July 1, 2017, or affect any right which has accrued, any duty imposed, any penalty incurred, or any action or proceeding commenced under or by virtue of the county code provisions then incorporated by reference into the city code.

7. Effective Date: This Ordinance shall become effective immediately upon its posting.

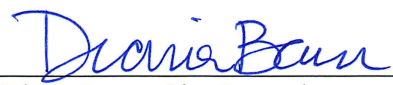
[execution on following page]

APPROVED AND ADOPTED at a duly called meeting of the Kearns City Council
on this 5th day of October 2026.

KEARNS CITY COUNCIL


By: Jesse Valdez, Mayor

ATTEST:


Diana Baun, City Recorder

Voting:

Council Member Butterfield voting

Council Member Colby voting

Council Member Longtin voting

Council Member Schaeffer voting

Mayor Valdez voting

aye
aye
aye
aye
aye

(Complete as Applicable)

Date ordinance summary was published on the Utah Public Notice Website per Utah Code §10-3-711:

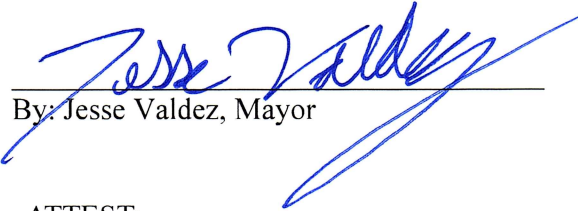
October 6, 2026

Effective date of ordinance: October 6, 2026

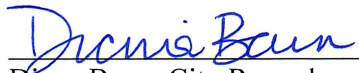
**SUMMARY OF
CITY OF KEARNS
ORDINANCE NO. 2026-O-18**

On October 5, 2026, the Kearns City Council enacted Ordinance No. 2026-O-18 to restate Title 1 (General Provisions), Title 2 (Administration and Personnel), and Title 3 (Revenue and Finance) of the Kearns Municipal Code; codify the City's Personnel Policy as Chapter 2.16; and codify the City's Purchasing Policy as Chapter 3.16.

KEARNS CITY COUNCIL


By: Jesse Valdez, Mayor

ATTEST:


Diana Baun, City Recorder

Voting:

Council Member Butterfield voting
Council Member Colby voting
Council Member Longtin voting
Council Member Schaeffer voting
Mayor Valdez voting

aye
aye
aye
aye
aye

A complete copy of Ordinance No. 2026-O-18 is available in the office of the Kearns City Recorder, 860 Levoy Drive, Suite 300, Taylorsville, Utah 84123.

EXHIBIT A

Title 1 (General Provisions)

TITLE 1. GENERAL PROVISIONS

CHAPTER 1 -- OFFICIAL NAME

1.01.010 Official Name

The official name of the City shall be the “City of Kearns.” All official documents, agreements, letterheads, deeds, publications, and other City property shall bear the official name.

1.01.020 Adoption of City Seal and Logo

The following is adopted as the official seal and logo of the City:



CHAPTER 2 -- CODE ADOPTION

1.02.010 Code Adoption

Pursuant to the provisions of Utah Code §§ 10-3-701 and 10-3-707 the Council ordains as follows and has adopted the “Kearns Code of Municipal Ordinances, 2025.”

1.02.020 Title; Citation; Reference

This Code shall be known as the “Kearns Code of Ordinances, 2026” and it shall be sufficient to refer to the Code as the “Kearns Code of Ordinances, 2026” in any prosecution for the violation of any provision therein or in any proceeding at law or equity. It shall be sufficient to designate any ordinance adding to, amending, correcting or repealing all or any portion thereof as an addition to, amendment to, correction or repeal of the “Kearns Code of Ordinances, 2026.” Whenever a reference is made to this Code as the “Code,” the “Kearns Code of Ordinances,

2026” or to any portion thereof, or to any ordinance of Kearns, the reference shall apply to all amendments, corrections and additions made before, as of or after the effective date of the ordinance codified in this chapter.

1.02.030 Reference to Specific Ordinances

The provisions of this Code shall not in any manner affect matters of record which refer to, or are otherwise connected with the ordinances which are therein specifically designated by number or otherwise and which are included within this Code but such references shall be construed to apply to the corresponding provisions contained in this Code.

1.02.040 Effective Date of This Code

This Code shall be effective on October 5, 2026.

1.02.050. Interpretations. Rules of Construction. Conflicting Provisions

- A. Interpretation, Generally. The provisions of this Code, Title 1, General Provisions, shall govern the interpretation of this Code, except if specifically provided otherwise.
- B. Words and Phrases. Words and phrases are to be construed according to the context and the approved usage of the language; but technical words and phrases, and such others as have acquired a peculiar and appropriate meaning in law, or are defined by statute, are to be construed according to such peculiar and appropriate meaning or definition.
- C. Promotion of Justice. Each provision of, and each proceeding under this Code are construed to effectuate the objectives of the provision and to promote justice.
- D. Retroactive Effect. A provision of the Code is not retroactive, unless the provision is expressly declared to be retroactive.
- E. Effect of Repeal. The repeal of an ordinance does not revive an ordinance previously repealed, or affect any right which has accrued, any duty imposed, any penalty incurred, or any action or proceeding commenced under the repealed ordinance.
- F. Specific Language Over General Language. If any Code provision is in conflict with another provision in this Title the more specific provision shall govern.
- G. Recent Enactment Governs. If any Code provision remains in conflict with another provision in this Title and is not be resolved as provided in Subsection F., the most recent enactment shall govern.

- H. State Code. If any Code provision conflicts or becomes in conflict with any state Code provision, the Code provision shall be considered to be repealed and to be of no effect for such period of time as such Code provision remains in conflict with state Code, and the state Code shall govern.
- I. Successor Statutes and Code Provisions. Any statute or Code provision cited in the Code shall be deemed to include that statute or Code provision as amended, restated, and/or replaced to the same general intent and effect.

1.02.060 Rules of Construction

A. General:

1. In the construction of an ordinance in Code, the general rules listed in this section shall be observed, unless the construction would be:
 - a. Inconsistent with the manifest intent of the city council; or
 - b. Repugnant to the context of the Title.
2. The singular includes the plural, and the plural includes the singular.
3. A word used in one gender includes the other gender.
4. A word used in the present tense includes the future tense.
5. In accordance with Title 46, Chapter 4, Part 5, of the Utah Code, Electronic Records in Government Agencies, a word related to the medium used in the provision of a government service may include an electronic or other medium.
6. A term described in section 2.a. may be used when unusual circumstances exist that require the use of the term, including the use of the term:
 - a. In an interstate compact; or
 - b. To ensure consistency with a federal law or rule.

B. Discouraged Terms

1. Except as provided in this Section, the use of the word “should” is strongly discouraged, but may be used to:
 - a. Refer to a recommended action, including a provision that a person shall or may recommend whether an action “should” be taken;

- b. Indicate an expected standard of knowledge, including a provision that a person “should” know:
 - i. whether a fact exists; or
 - ii. that an action is likely to cause a specified result; or
 - c. Refer to a determination as to whether an action “should” have occurred.
 - 2. The use of the word “must” is strongly discouraged when the term “shall” can be used in its place.
 - 3. Except as provided in this Section, the use of the following terms in this Title are strongly discouraged when the term “may not” can be used in its place:
 - a. “shall not”;
 - b. “should not”;
 - c. “must not”; or
 - d. “but not limited to” after “include,” “includes,” or “including.”
- C. Definitions. In the construction of the ordinances set out in this Code, and all subsequent amended ordinances, the following definitions shall be observed, unless such construction would be inconsistent with the manifest intent of the council, or repugnant to the context of the ordinance. These definitions shall be in addition to other definitions the Council may approve for specific titles, chapters, and sections.
 - 1. “Administration” means administrative services that the City provides, including any administrative services that the City’s contractors or agents may provide.
 - 2. “Administrative Law Judge” means a person appointed by the Mayor or the Mayor’s designee to preside over administrative hearings as provided in the Code. An Administrative Law Judge shall be an attorney licensed to practice law in the State of Utah and must not be a City employee.
 - 3. “Administrative Hearing” means a hearing held pursuant to the procedures established by the Code.
 - 4. “Animal services” means the animal services the City provides through its contractors and agents.

5. “Assessor” or “County Assessor” means the elected assessor of Salt Lake County, Utah.
6. “Attorney” or “City Attorney” means the Kearns City Attorney.
7. “Board of health” means the Salt Lake County board of health.
8. “Business” means any enterprise carried on the purpose of gain, economic profit, or nonprofit for which a business license is required.
9. “Business enterprise” means a sole proprietorship, partnership, association, joint venture, corporation, limited liability company, or other entity used in the carrying on of business.
10. “Chapter” means the specific sub-topic group within a title and is the citation number to be used for reference or cross-reference.
11. “Clerk” means the means the person who serves as the Recorder for Kearns.
12. “City Administrator” means the person appointed by the Council to serve as the City Administrator pursuant to Chapter 2.02 of the Code if Council chooses to make an appointment.
13. “City Attorney” means the licensed attorney appointed by the Council to serve as the City Attorney pursuant to Chapter 2.06 of the Code.
14. “Code” means the ordinances of Kearns.
15. “Code Enforcement Official” means any official or the official’s designee authorized by Kearns to enforce civil compliance with code, policies, regulations, or applicable state code as provided in Title 12 or otherwise in the Code.
16. “Council” means the Kearns City Council.
17. “County” or “Salt Lake County” shall refer to Salt Lake County.
18. “Disaster” means a sudden calamitous manmade, natural, or war-caused event bringing great damage, loss, or destruction.
19. “District attorney” means the elected attorney of Salt Lake County, Utah.
20. “Elected Official” means the Mayor or any city council member.
21. “Director” means the Greater Salt Lake Municipal Services District Director of Planning and Development Services or Department.

22. “Employee” means a person who is employed on a full-time, part-time, or contract basis by the City. “Employee” includes elected and appointed officers of the City.
23. “Enforcement Action” or “action” means any action by Kearns to enforce compliance with any ordinance, policy, regulation, or applicable state statute, and includes a notice of violation, an administrative citation, departmental determination or board’s findings and conclusions, and related order or corrective action. This term may not include any criminal prosecution.
24. “Enforcement Official” means any person and the designee authorized by Kearns, including the code enforcement officer, planning director, zoning officers, police officers, building and engineering inspectors, animal control officers, human resource officers, and health department officials to enforce compliance with code, policies, regulations, or applicable state code.
25. “Engineer” means the licensed engineer appointed by the Council to serve as the City’s engineer pursuant to Chapter 2.05 of the Code.
26. “Engineering Division” means the division or personnel hired by or contracted with Kearns to provide engineering services. “Fire department” means the department or entity authorized by Kearns to provide fire and emergency services to Kearns.
27. “Flood Control Division” means the division or personnel hired by or contracted with Kearns to provide flood control and water quality services.
28. “General Rule” means that all words and phrases shall be construed and understood according to the common use and understanding of the language; the technical words and phrases; and such other words and phrases as may have acquired a particular meaning in law shall be construed and understood according to such particular meaning.
29. “Gifts” means anything of value including a loan at a rate that is substantially less than a prevalent commercial rate, compensation for goods or services exceeding fair market value, goods or services provided for less than fair market value, gratuity, entertainment, hospitality or forbearance, unless consideration of equal or greater value is received.
30. “Governing body” means the Council for legislative matters and the Mayor for executive matters.
31. “GRAMA” means the Utah Governmental Records Access and Management Act, Utah Code, Title 63G, Chapter 2. .
32. “Health department” means the Salt Lake County health department.

- 33. “Highway” or “public highway” means any public road, street, alley, lane, court, place, viaduct, tunnel, culvert, bridge, or other public way situated within Kearns, laid out or erected for public use, or dedicated or abandoned to the public, or made public in an action for the partition of real property, including the entire area within the right- of-way.
- 34. “Honoraria” means the offering or acceptance of perquisite, gift or anything of value for speaking, writing or participating in a meeting, convention, social event, meal or like gathering.
- 35. “Individual” refers to any natural person including City clients and patrons; members of the public; and City officers, employees and volunteers.
- 36. “Justice Court Services” means the justice court, municipal prosecution, and indigent defense services authorized for Kearns.
- 37. “Kearns” means the City of Kearns, Utah.
- 38. “Knowingly” means intentionally or with intent, or willfully with respect to the nature of the conduct or the result of the conduct, when it is the conscious objective or desire to engage in the conduct or cause the result.
- 39. “Law” means the United States Constitution, Utah Constitution, applicable federal code, Utah Code, Salt Lake County ordinances or its Code, and any rule or regulation promulgated thereunder.
- 40. “License” includes any certificate or license that Kearns may issue.
- 41. “License official” means the director of Kearns’s planning and development services division or the director’s designee.
- 42. “Local emergency” means the proclamation by the Mayor invoking special powers and the emergency operation plan as a result of a disaster, except the Mayor may not exercise powers to respond to a pandemic or an epidemic.
- 43. “May” means an action that is authorized or permissive.
- 44. “May not” means an action that is not authorized and is prohibited.
- 45. “Mayor” means the Mayor of Kearns.
- 46. “Mayor Pro Tempore” or “Mayor Pro Tem” means that member of the Council who the Council has elected to serve in the Mayor’s absence.

47. “Metro township” means the City of Kearns.
48. “MSD” or “municipal services district” means the Greater Salt Lake Municipal Services District” that is the local district that operates pursuant to Title 17B-, Chapter 1, Section 101 et seq., Utah Code, and provides municipal services to Kearns.
49. “Municipality” means the City of Kearns.
50. “Municipal services district” means the MSD, which provides one or more of the services to its members, including administration, planning and development, animal services, municipal parks, public works operations and engineering, justice courts, and legal services as permitted by applicable law.
51. “Must” means, depending on the context in which it is used, that:
1. An action is required or mandatory;
 2. An action or result is compelled by necessity;
 3. An item is indispensable; or
 4. An action or event is a condition precedent to:
 - a. The authority to act;
 - b. A prohibition;
 - c. The accrual or loss of a right; or
 - d. The imposition or removal of an obligation.
52. “Offense” means any act, action, or conduct prohibited by this Code or the failure to perform any acts required by this Code or prohibited by the Utah Criminal Code.
53. “Order” means any Kearns order including a stop work order, notice of non-compliance, clean-up order, abatement action, revocation or suspension of a license or permit, assessment of charges or costs, notice of zoning violation, seizure of any animal or property, Code enforcement order relating to the occupancy of any structure or building, any written disciplinary action, the assessment of any costs or non-criminal penalty, or any other action seeking the cessation of any business or operation.

54. “Owner” applied to a building or land, means and includes any part owner, joint owner, tenant in common, joint tenant or less of the whole or of any part of the building or land.
55. “Parks and recreation” means the Kearns’ or county parks, land, and activities in Kearns that are serviced by Salt Lake County Parks or the department or entity authorized by Kearns to provide the services.
56. “Person” means any natural person, firm, joint venture, joint stock company, partnership, association, club, company, corporation, bodies politic, business trust, organization, or the manager, lessee, agent, officer, or employee of any of them, or any individual, partnership, association, corporation, or group of individuals, however styled or designated, and any other entity that is recognized by law as the subject of rights or duties, or who represents or is the agent of such person.
57. “Personal property” means and includes money, goods, chattels, things in action, and evidences of debt.
58. “Plan” or “general plan” means the Kearns General Plan.
59. “Planning and development” means the department or entity and its personnel authorized by Kearns to provide planning and development services to Kearns by the MSD.
60. “Police Department” means the department or entity authorized to provide law enforcement and police services to Kearns.
61. “Policy and Procedures” means a written statement formally adopted by the Council providing for the implementation of ordinances, powers, and duties for Kearns’s governance and administration.
62. “Property” means and includes real and personal property.
63. “Property Owner” means the record owner of real property as shown on the records of the Salt Lake County Recorder.
64. “Public Works” means the operations’ division or personnel hired by or contracted with Kearns to provide road construction and maintenance, snow removal, and other related services.
65. “Purchasing agent” means any officer or employee who recommends for final action, prepares specifications, or approves or rejects any part of a specific procurement or disposal of goods, services, or real property or any specific contract related to a procurement of goods or services or disposal of property.

66. “Real property” means the means and includes lands, tenements, and hereditaments.
67. “Recorder” means the person who serves as the City’s Recorder pursuant to Chapter 2.03 and Utah Code.
68. “Responsible Person” or “responsible party” means the person determined by Kearns who is responsible for causing, maintaining, or remedying a violation of the Kearns Code, policies, regulations, or applicable state codes. The term “responsible person” shall include a property owner, agent, tenant, lessee, occupant, business owner, business manager or employee, architect, builder, contractor, or other person who individually or together with another person is responsible for the violation of any provision of the Kearns Code, policies, regulations, or applicable state codes.
69. “Shall” means an action that is required or mandatory.
70. “Sheriff” means the Salt Lake County Sheriff.
71. “State” means the state of Utah.
72. “Street” includes alleys, lanes courts, boulevards, public ways, public squares, public places, sidewalks, gutters and culverts, crosswalks, and intersections.
73. “Surveyor” means the person authorized by Kearns to serve as the surveyor for Kearns.
74. “Tenant” or “occupant,” applied to a building or land, means and includes any person who occupies the whole or any part of such building, either alone or with others.
75. “Title” means the broad subject-matter category within Kearns Code, including 19 Titles.
76. “Treasurer” means the person who serves as the City Treasurer pursuant to Chapter 2.04 and Utah Code.
77. “UFA” means the Unified Fire Authority of Greater Salt Lake.
78. “UPD” means the Unified Police Department of Greater Salt Lake.
79. “Year” means a calendar year unless specified otherwise.
80. “Will” means an action that is required or mandatory.

1.02.070 Severability

The provisions of the Code are declared to be severable, and if any provision of the Code shall, for any reason, be held to be invalid or unconstitutional or if the application of the Code to any person or circumstance is held to be invalid or unconstitutional, such holding shall not affect the validity of the remaining provisions of the ordinance codified in the Code.

1.02.080 Computation of Time

Except when otherwise provided, the time within which an act is required to be done shall be computed by excluding the first day and including the last day, if Saturday, Sunday or a holiday, in which case the last day shall be the next following business day. When the period of time is less than seven days, intermediate Saturdays, Sundays and legal holidays shall be excluded.

1.02.090 Liability Of Employers And Agents To Penalty For Violation Of Ordinances

When the provisions of an ordinance prohibit the commission or omission of any act, the person doing the prohibited act or omitting the directed act and the employer, if the act or omission is done within the course and scope of employment, and all other persons aiding or abetting therein, shall be guilty of the offense described and subject to the penalty prescribed for the offense.

1.02.100 Penalty For Violation Of Code Provisions

When no other penalty is prescribed for violations of the Code, such violations shall be classified as Class B misdemeanors shall be punished accordingly in accordance with state criminal code.

1.02.110 Remedies and Prosecution

The City shall have sole discretion in deciding whether to pursue civil remedies or seek administrative enforcement for the violation of the Code and of its ordinances, policies, regulations, and applicable state statutes. This Code shall not limit the powers of the City or the district attorney in pursuing criminal charges for the violation of any City ordinances or state statutes, in addition to any civil action the City may take.

CHAPTER 3 -- APPEALS AND ADMINISTRATIVE HEARINGS

1.03.010 Purpose and Scope

- A. The purpose of this Chapter is to establish an administrative appeal process for City actions relating to the enforcement of this Code or other City ordinances, policies, regulations, and applicable state statutes through the City's administrative process.
- B. If the Code establishes an administrative appeal process for a specific Title, Chapter, or Section of this Code, the more specific administrative appeal process shall apply and the general administrative appeal process set forth in this Chapter shall not apply.
- C. For appeals that are subject to this Chapter, no judicial review shall be available if the provisions of this chapter are not followed, and failure to timely request and participate in an administrative review under this Chapter shall bar any action in the state or federal courts by an aggrieved person.

1.03.020 Service of Notice Requirements

- A. Whenever a notice is required to be given under this chapter it shall be in the form of a notice approved by the city administrator and the notice shall be served by one of the following methods:
 - 1. U.S Postal Service Certified Mail, postage prepaid, addressed to the respondent's designated address;
 - 2. U.S. Postage Service Certified Mail, postage prepaid, addressed to the respondent's legal registered agent, or if the respondent is an individual, addressed to the respondent's dwelling or place of business, if no designated address is provided by respondent; or .
 - 3. Personal Service by hand-delivery; or
 - 4. U.S. Postal Service Certified Mail, postage prepaid, with Return Receipt Requested.
- B. Failure of a responsible person to actually receive notice shall not affect the validity of any action taken hereunder if notice has been served in the manner set forth above.
- C. Service by regular mail in the manner set forth above shall be deemed served on the fourth day after the date of mailing.

- D. The failure of a person, other than a responsible person, to be served notice in accordance with this section shall not affect the validity of any proceeding taken hereunder by any party aggrieved by the City's actions.

1.03.030 Appointment of Administrative Law Judge

The Council shall appoint an attorney or attorneys licensed to practice law in Utah to serve as the City's administrative law judge or judges to hear all requests for review or appeals made under the Code. To be eligible for appointment as an administrative law judge, an attorney must be in good standing with the Utah State Bar.

1.03.040 Powers of Administrative Law Judge

- A. An administrative law judge shall have authority to set the date, time, and place for holding an administrative hearing.
- B. An administrative law judge may issue a scheduling order to guide the conduct of the case, to set the limits of any pre-hearing discovery, to provide for the identification of witnesses and their expected testimony, to list and exchange proposed exhibits, to approve stipulations regarding facts, applicable law, foundation to exhibits, and to govern such other matters related to hearing of the matter as deemed appropriate.
- C. The administrative law judge holding a hearing shall arrange for the recording of any hearing.
- D. The administrative law judge is empowered to issue subpoenas for the production of documents and things and to compel the appearance of witnesses in the pending action. It shall be unlawful for any person to willfully refuse or fail to obey a subpoena issued for an administrative hearing. A violation of this section shall be a class B misdemeanor.

1.03.050 Request for Administrative Hearing

- A. A responsible person served with an enforcement action and the City shall have the right to request an administrative hearing.
- B. A party who has been adversely affected by an action by a city department or entity may also request an administrative hearing. An adverse effect may arise from:
 - 1. Any decision affecting the employment status, compensation, or treatment of an employee of the city;
 - 2. Denial, revocation, or termination of any license issued by the City;

3. Any decision relating to the zoning or permitted use of real property located within the incorporated limits of the City;
 4. Any decision relating to the award or failure to award a bid or proposal but which action must be brought within the time limitations and grounds set forth in the city ordinances and policies governing procurement;
 5. Any notice of violation, animal seizure, assessment of costs, or other action taken by animal services; or
 6. Such other violation, assessment, or action as designated by the City ordinance, policy, regulation, or state law.
- C. The request for an administrative hearing shall be made in writing and delivered to the City Administrator or the Mayor, in the absence of a City Administrator.
 - D. The written request for hearing must be received by the City Administrator or the Mayor, if applicable, within fifteen (15) calendar days of the date the enforcement action is served upon the responsible party. Failure to request an administrative hearing within fifteen calendar days from the date of service shall constitute a waiver of the right to an administrative hearing and of the right to an appeal of the enforcement action to any state or federal court or agency.
 - E. Within fifteen (15) days of the issuance of an enforcement action, the City may request an administrative hearing for the purpose of compelling a responsible person to comply with the action.
 - F. If a responsible person fails to request a hearing after being issued an “enforcement action,” the corrective action detailed within the action shall be considered the final administrative order and the person shall be deemed to have waived any appeal of that order.

1.03.060 Notification of Administrative Hearing

- A. As soon as practicable after receiving the written notice of the request for review in an administrative hearing, the City Administrator or the Mayor, in the absence of a City Administrator, shall appoint an administrative law judge if one has not been previously appointed or assign the appeal to a previously appointed administrative law judge, who shall schedule a date, time, and place for the administrative hearing.
- B. Written notice of the date, time, and place of the administrative hearing shall be served on the responsible person as soon as practicable prior to its date.

- C. The notice shall be served by any of the methods of service set forth in Section 1.03.020 of this Chapter.

1.03.070 Rules of Discovery and Evidence for Administrative Hearings

- A. The administrative law judge shall determine the scope of any pre-hearing discovery.
- B. The formal rules of evidence and of civil procedure adopted by the courts shall not be applied in any administrative hearings; however, the administrative law judge shall determine the admissibility and weight to be accorded any evidence.
- C. The administrative law judge shall issue written findings of fact and conclusions of law within forty-five (45) days after the conclusion of the hearing.

1.03.090 Appeal

- A. Any responsible person or county agency adversely affected by a final administrative order issued pursuant to a hearing may file a petition for review in the Third Judicial District Court of the State of Utah in accordance with the Utah Rules of Civil Procedure.
- B. A petition for review shall be barred unless it is filed within thirty (30) days after the administrative order is final, unless a statute provides otherwise.
- C. The record of the administrative hearing including minutes, findings, orders and, if available, a true and correct transcript of the proceeding shall be transmitted to the reviewing court by the party filing the appeal and the costs of producing the record, including any transcripts, shall be borne by the party filing the appeal. If the proceeding was tape recorded, a transcript of such tape recording shall be deemed a true and correct transcript for purposes of this subsection.
- D. The filing of a petition does not stay execution of an administrative order. Before filing a petition, a responsible person may request the administrative law judge to stay an administrative order. Upon receipt of a request to stay, the administrative law judge may order the administrative order to be stayed pending district court review if the administrative law judge finds such stay to be in the best interest of the City.

1.03.100 Adoption of Additional Rules

The Council may establish rules and procedures in addition to those set forth in this Chapter to govern administrative hearings, which rules may differ depending on the category and type of violation and appeal.

EXHIBIT B

Title 2 (Administration and Personnel)

TITLE 2 -- ADMINISTRATION AND PERSONNEL

CHAPTER 2.01 -- CITY COUNCIL

2.01.010 Form of Government

Kearns operates as a five-member Council form of municipal government pursuant to applicable state law, and the powers of municipal government are vested in a Council consisting of five members, one of which is the Mayor.

2.01.020 Powers and Duties

The Council shall be the governing body of Kearns and may exercise those powers and authorities and be bound by those duties and responsibilities set out in state law and in City ordinances.

2.01.030 Eligibility and Voting Districts

The Council shall consist of a Mayor elected at-large and four Council members, elected by district as provided in state law. Voting districts shall be determined pursuant to state law.

2.01.040 Term of Office

Council members shall be elected at the next municipal election preceding the expiration of the term of office of incumbents. Council members shall be elected for four-year terms pursuant to state law. Each Council member shall hold office for the term of which elected and until a successor is elected and qualified as provided in state law, unless the office becomes vacant.

2.01.050 Vacancies

When a vacancy occurs in the Council, through ineligibility, resignation, or death of an incumbent or of an officer-elect before qualifying, or refusal to act, or for any other reason, the vacancy shall be filled as provided in state law.

2.01.060 Mayor Pro Tempore and Appointment of Staff

- A. The Council shall elect a Council member at the first duly noticed and open Council meeting in January of each year to serve as the Mayor Pro Tempore to carry out all duties and responsibilities of the Mayor when the Mayor is absent or unable to perform mayoral duties. The Recorder shall enter in the minutes of the Council meeting the appointment of a Council member as Mayor Pro Tempore.

- B. The Council may make such staff appointments as are necessary for the proper conduct of its business.
- C. The Mayor shall be responsible for the conduct of all meetings, overseeing the preparation of the agenda by the Recorder for all meetings, and meeting the needs of the Council between meetings, including the providing of assistance and the gathering of information for the Council and the performance of duties assigned by the Council or by ordinance, the plan, or by law unless lawfully delegated to the City Administrator.
- D. If the Mayor or Mayor Pro Tempore are unable to act, the remaining Council members present at a duly noticed open meeting shall, by an order entered in their minutes, select one of the members to act as Mayor temporarily.
- E. The Recorder shall administer oaths to any person when necessary in the performance of official duties.

2.01.070 Powers And Duties of Mayor

- A. The Mayor shall:
 - 1. Be the chief executive officer of Kearns and shall have such powers and duties as are prescribed by state law and Kearns' ordinances;
 - 2. Serve as the City's chief administrative officer in the absence of a City Administrator and exercise any duty or responsibility assigned to the City Administrator.
 - 3. Be a regular and voting member of the Council;
 - 4. Serve as the chair of the Council and preside at all Council meetings;
 - 5. Exercise ceremonial functions on behalf of Kearns; and
 - 6. Except as otherwise limited by state law or Kearns ordinance, have the powers and duties described in Utah Code §§ 10-3b-104 and 10-3b-402 or applicable successor statute.
- B. The Mayor may not veto any ordinance, tax levy, or appropriation passed by the Council.

2.01.080 Powers and Duties of Council

- A. The Council shall exercise any executive or administrative power and perform or supervise the performance of any executive or administrative duty or

function of Kearns that has not been given to the Mayor or City Administrator under state law and City ordinances.

B. The Council is the legislative body of Kearns and exercises the legislative powers and performs the legislative duties and functions of Kearns and may:

1. Adopt rules and regulations, not inconsistent with statute, for the efficient administration, organization, operation, conduct, or business of Kearns;
2. Prescribe by resolution additional duties, powers, or responsibilities for any elected or appointed municipal official, not inconsistent with statute; Require by ordinance that any or all appointed officers reside in Kearns;
3. Create any office that the council considers necessary for the government of Kearns;
4. Provide for filling a vacancy in an elective or appointive office;
5. Take any action authorized under Utah Code § 10-8-84; and
6. Perform any function specifically provided for by statute or necessarily implied by law

C. The Council may by ordinance:

1. Pursuant to state law and City ordinances, remove from the Mayor any power, duty, or function of the Mayor pursuant to state law, excluding the Mayor's legislative powers, judicial powers, ceremonial functions, position as Chair of the Council, and any ex officio position the Mayor may hold;
2. Reinstate to the Mayor any power, duty, or function previously removed under this Section;
3. Delegate to the Mayor any executive or administrative power, duty, or function of the Council;
4. Assign any or all Council members, including the Mayor, to supervise one or more administrative departments of Kearns;
5. As provided in state law and this Title, appoint a City Administrator to perform executive and administrative duties or functions that the Council by ordinance designates to the City Administrator; and

- 6. Dismiss a City Administrator appointed by the Council.
- D. Removing or reinstating to the Mayor any power, duty, or function under this Code requires the affirmative vote of the Mayor or all Council members except the Mayor.
- E. Removing or reinstating to the City Administrator, if the Council appoints a City Administrator, any power, duty, or function under this Code by the affirmative vote of all Council members.

2.01.090 Recorder-Minutes

- A. The Recorder, or designee, shall provide copies of the minutes of all meetings of the Council to its members in a manner and within the times as established by the Council and agreed upon by the Recorder and in compliance with state code.
- B. In accordance with state law, the books, records and accounts of the Council must be maintained at the office of the Recorder and open at all times during usual business hours for public inspection.
- C. The records and minutes of the Council must be signed by the Mayor and the Recorder.

2.01.100 Council Meetings

- A. All meetings of the Council must be public, except as provided in this Chapter and by state law. Official action may be taken by the Council only in open public meetings unless otherwise permitted by state law.
- B. The Council shall conduct its business in accordance with the Utah Open and Public Meetings Act, Utah Code, Title 52, Chapter 4, as it now exists or as it may hereinafter be amended.
- C. The Council conducts the following types of meetings:
 - 1. Regular Meetings;
 - 2. Special Meetings;
 - 3. Closed Meetings;
 - 4. Work and other Meetings; and
 - 5. Emergency Meetings.

- D. The Council shall give public written notice at least once each year of its annual meeting schedule for regular meetings. The public notice shall specify the date, time and place of such meetings.
- E. The Council, by majority vote of the members present, may direct the removal of any person who willfully disrupts a Council meeting to the extent that orderly conduct is seriously compromised.
- F. The attorney and auditor or their designees may attend and assist the Council at all meetings but shall attend and assist the Council at all meetings when requested.

2.01.110 Work Meetings

- A. The Council shall conduct its regular work sessions at the hour and place designated by the Mayor.
- B. Work meetings shall be scheduled or cancelled as the public business requires and shall consist of discussion, review, testimony, requests and information from City employees, presentations by the public, review of regular meeting agendas, preparation for regular meetings, and such other matters and activities as may be necessary or scheduled by the Mayor in consultation with the Council.
- C. Work meetings shall be open to the public in accordance with state law and public notice shall be given of all meetings in the same manner as required for regular meetings.
- D. A quorum of Council members is necessary to conduct work meetings.

2.01.120 Regular/Special Meetings

- A. The Council shall:
 - 1. By ordinance prescribe the time and place for holding its regular meeting; and
 - 2. Hold a regular meeting at least once each month.
- B. The Mayor or two Council members may order the convening of a special meeting of the Council.
 - 1. Each order convening a special meeting of the Council shall:
 - a. be entered in the minutes of the Council; and

- b. provide at least three hours' notice of the special meeting.
- 2. The Recorder shall serve notice of the special meeting on each Council member who did not sign the order by delivering the notice personally or by leaving it at the Council member's usual place of abode.
- 3. The personal appearance by the Council member at a special meeting of the Council constitutes a waiver of the notice required under this Section.

2.01.130 Closed Meeting

- A. A closed meeting of the Council may be held upon the affirmative vote of two-thirds of the members present at an open meeting for which notice has been given in accordance with state law; provided, however, that a quorum must be present.
- B. No closed meeting is allowed except for matters exempted from open meetings under the Open and Public Meetings Act, Utah Code, Title 52, Chapter 4, as it now exists or as it may hereinafter be amended.
- C. No official action may be taken at a closed meeting.
- D. The reason or reasons for holding a closed meeting and the vote thereon shall be entered in the minutes of the meeting.

2.01.140 Emergency Meetings

When, because of unforeseen circumstances, it is necessary for the Council to hold an emergency meeting to consider matters of an emergency or urgent nature, the normal notice requirements for a meeting may be disregarded and the best notice practicable given to the Council members and the public. No such emergency meeting of the Council shall be held unless an attempt has been made to notify all Council members and a majority of the Council votes in the affirmative to hold the meeting. Action may not be taken at an emergency meeting unless a quorum is present. A record shall be kept of the means utilized to contact the members and the number voting and names of the members voting to hold the meeting.

2.01.150 Additional Committees

- A. The Council may establish additional committees as it deems appropriate and may convene committee meetings at any time for the purpose of study, discussion, investigation, formal hearings or inquiries, workshops, training, or presentations by or responses from citizens or other interested persons or groups.

- B. No official action may be taken in committee meetings other than the adoption of non-binding recommendations to the Council.
- C. Committee meetings shall be open to the public in accordance with state law and public notice shall be given of all committee meetings in the same manner as required for regular meetings.

2.01.160 Agenda

- A. An agenda shall be prepared by the Recorder in consultation with the Mayor or the Mayor Tempore in the Mayor's absence in advance of each meeting, including emergency meetings to the extent possible. The agenda shall be published as provided by state law at least twenty-four hours in advance of the meeting.
- B. Matters received from any member of the Council or the Mayor shall be placed on the agenda. Requests for matters to be placed upon the agenda by persons other than Council members or Mayor, may be placed on the agenda at the discretion of the Mayor.
- C. The Council, for its regular, special and committee meetings, shall announce and post its agenda and provide notice of such meetings, in accordance with the provisions of state law, at least twenty-four hours prior to the convening of the Council meeting and posted on the Utah Public Notice Website. Written notice of the agenda and meeting shall be posted at the office of the Council or the meeting location, as the case may be. For an emergency meeting, public notice and notice to the news media shall be given as may be practical under the circumstances.
- D. The agenda may be changed by a majority vote of the Council, but no action may be taken on new matters introduced to the agenda unless twenty-four hours' notice has been duly given to the public or unless the matter is of an emergency nature, as approved by a separate majority vote of Council members present.
- E. All agenda items pertaining to pending or proposed actions shall be considered as proposals for adoption. In the absence of a motion to adopt, postpone, or table pending or proposed actions, the Mayor shall, upon the conclusion of discussion on the matter, declare that the proposal fails adoption or, at the Mayor's discretion, declare the matter to be held over for a subsequent meeting.

2.01.170 Public Hearings.

- A. Public hearings shall be deemed to include only those hearings specifically noticed and required to be conducted by the Council by state law or otherwise for the purposes of providing opportunities for the general public to comment

upon and make inquiries or presentations with respect to specific proposals or matters under consideration by the Council including, but not limited to, planning and zoning, ordinances, budget hearings, hearings on the proposed issuance of bonds or debt, or other matters of significant public interest. The Council at its discretion may schedule public hearings for other matters under consideration.

- B. Public hearings may be held as part of a regular, special, committee, emergency, or other meeting of the Council. The decision to conduct a public hearing shall be made by the Council at a regular, special, or emergency meeting.
- C. Schedules for public hearings shall be announced by the Mayor and public notice shall be given in the manner required for any public meeting of the Council as required by law and this Chapter. The notice shall include the specific subject matter of the public hearing as well as the time, date and place thereof.
- D. At the beginning of any public hearing, the Mayor may publicly state the rules of conduct for such public meetings including any time limits on speakers' presentations, any requirement of submitting materials in writing with sufficient copies for all Council members and the Recorder, and such other rules as may be reasonably necessary for the proper and expeditious conduct of the public hearing.
- E. Public hearings shall be opened upon the declaration of the Mayor that the Council is at that time in a public hearing and the Mayor shall state the specific purpose of that public hearing. Upon the conclusion of the public hearing and a motion duly made, seconded, and carried by a majority of the Council, the Mayor shall declare the public hearing concluded or continued to another date, if permitted by law. The Mayor shall state the conditions of any continuance.
- F. Where permitted by state law, the Council may rehear any matter decided after a public hearing where an aggrieved person files a written request for rehearing that includes new evidence which the Council determines to justify reconsideration of its decisions. A request for rehearing shall be filed within ten (10) calendar days from the date of the original decision. If a request for rehearing is granted by the Council, the rehearing shall follow the same procedures as the original hearing. No rehearing shall be allowed on any matter where a rehearing would be contrary to state law.

2.01.180 Electronic Meetings

- A. General: The Council may conduct an electronic meeting that some or all of the Council members may attend through an electronic video, audio, or both video and audio connection, including telephonic, telecommunication, or computer conference methods in compliance with Utah Code § 52-4-207. Any Council

member may request that a meeting of the Council be an electronic meeting, provided that Council member makes the request at least 24 hours in advance of that meeting.

- B. Participation. The primary purpose for holding electronic meetings is to enable some or all members of the Council to participate in the meeting electronically. A member of the public may attend remotely by electronic means to monitor an open meeting of the Council provided that the member of the public sends a written request to the Recorder and further provided that the Council is not required to acquire any equipment, facilities, or expertise which the Council does not already possess to accommodate the request. Notwithstanding anything to the contrary in this Section, with the exception of a public hearing, the Council is not required to provide the public an opportunity to participate in, as opposed to attend and monitor, an electronic meeting. The Council member who chairs the electronic meeting shall be physically present at the anchor location.
- C. Anchor Location: The Council shall provide space and facilities at an anchor location for all electronic meetings except as provided in this Section. The anchor location is the physical location from which the electronic meeting originates or from which the participants are connected. At least one anchor location for an electronic meeting shall be the principal office building, such as the city hall or principal location, where the Council would normally meet if not holding an electronic meeting. A quorum of the Council is not required to be present at a single anchor location for an electronic meeting to be convened and conducted. As few as one Council member may be present at the anchor location pursuant to this Policy and Utah Code § 52-4-207. If the meeting is a public hearing, the Council shall provide space and facilities at an anchor location so that the public may attend, monitor, and participate in the hearing. If all Council members attend the meeting remotely through an electronic video, audio, or both video and audio connection, there is no requirement to provide an anchor location for the public to attend unless the Council receives a written request to provide an anchor location with at least twelve (12) hours' notice before the scheduled meeting time.
- D. Notice: The Recorder shall provide public notice of the electronic meeting to the Council members and the public with at least 24 hours advance public notice, including the agenda, date, time, location, and a description of how each member the Council can be connected to the electronic meeting. The Recorder shall post a written notice for each electronic meeting at the principal office of Kearns or at the building where the meeting is to be held if no principal office exists. The Council shall provide written or electronic notice in accordance with the Open and Public Meetings Act. These notice requirements are minimum requirements and are not to be construed as precluding such additional postings and notifications as may be directed by the Council to members of the public.

- E. Budget or Logistical Considerations – Exceptions: The City Administrator, or Mayor, if there is no City Administrator, may determine, based upon budget, public policy, logistical considerations, or health or safety concerns, prior to or during the electronic meeting, that it is not in the best interest of the Council to hold an electronic meeting and provide public notice of said determination, the determinative facts, and alternative means for the public to participate. The City Administrator, or Mayor, if there is no City Administrator, may also restrict the number of separate electronic connections that are allowed for an electronic meeting based on available equipment capacity. A request from a member of the public to participate in a meeting electronically may be denied by the City Administrator or Mayor, if there is no City Administrator, based on budget, public policy, logistical considerations, or health or safety concerns as determined sufficient by the City Administrator or Mayor, if there is no City Administrator.
- F. Conduct of Electronic Meeting: No action may be taken and no business may be conducted at a meeting of the Council unless a quorum, consisting of a simple majority of the members of the Council, is present in person and electronically. A Council member who is not physically present may nevertheless participate in the meeting through electronic means and be counted toward the required quorum in accordance with Utah Code § 52-4-207. Any Council member participating via electronic means may make, second, and vote on any motion or recommendation to the Council and participate in the discussion as though present. Nevertheless, the Council member who chairs the meeting must be present at the anchor location. If the Mayor or Mayor Pro Tempore is not physically present at the anchor location and there is still a quorum, a Council member who is physically present at the anchor location shall preside over the meeting. In any event, any electronic meeting and notice of any electronic meeting shall comply with the Open and Public Meetings Act.

2.01.190 Form Of Action

The Council may take action in the form of ordinances, policies, resolutions, motions upon requests or memorials.

A. Ordinances.

1. The Council, except as expressly limited by statute, shall exercise its legislative powers through ordinances and may adopt any ordinance to regulate, require, prohibit, govern, control or supervise any activities, business, conduct, or condition.
2. All ordinances must be in written form before a vote is taken.
3. Any ordinance passed by the Council shall contain and be in substantially the following order and form:

- a. Ordinance number and date;
 - b. A Title which indicates the nature of the subject matter of the ordinance;
 - c. An explanation stating the need or reason for the ordinance and summarizing its contents;
 - d. An ordaining clause which states “The Kearns Council ordains as follows;”
 - e. The body or subject of the ordinance;
 - f. When applicable, a statement indicating the penalty for violation of the ordinance;
 - g. A statement indicating the effective date of the ordinance;
 - h. A signature line for the Mayor;
 - i. An attestation line for the Recorder;
 - j. The votes of the Council members;
 - k. A space to indicate when the ordinance is posted pursuant to state law; and
 - l. An ordinance summary if required by statute.
4. Except in exigent circumstances, or when directed by a majority of Council members present, all ordinances, including ordinances relating to planning and zoning matters, shall be introduced in writing and read or described to the Council prior to the Council’s consideration for adoption of the ordinance. Copies of the proposed ordinance shall be noticed and posted in accordance with state law, along with the agenda for the meeting at which the ordinance is to be considered.
 5. Upon adoption, each ordinance shall be signed as required within five (5) business days..

B. Resolutions.

1. The Council may exercise all administrative powers by resolution, including, establishing fees and rates for water, sewer, garbage

collection, or other municipal services, administrative policies and guidelines, and the use and operation of Kearns property.

2. Resolutions shall be considered and adopted in those matters required by law or otherwise and may be used for policy declarations and proposals not appropriately addressed by ordinance and may be used to exercise Council authority in matters of statements of policy and communication.
3. Resolutions shall be in a form and contain sections substantially similar to that prescribed for ordinances, excluding those requirements that pertain to the posting of ordinances and ordinance summaries.
4. The Council may not impose a punishment, fine, or forfeiture by resolution.

C. Memorials.

1. Memorials shall be adopted in the form of resolutions or motions, as may be deemed appropriate, and shall be used as a statement of policy to respond to or commend persons or groups for notable activities which have been called to the attention of the Council.
2. Memorials may be considered and adopted at the same meeting in which they have been proposed and, in all events, shall be recorded in the minutes.

D. Policies, Procedures, Rules and Regulations.

1. Policies, procedures, rules and regulations shall be considered and adopted in those matters determined to be appropriate by the Council and not prohibited by statute.
2. Policies, procedures, rules and regulations shall be presented, considered and given notice in the same manner as prescribed for ordinances and shall be in such form as directed by the Council.

- E. All resolutions, policies, procedures, rules, regulations and ordinances shall be numbered, recorded and maintained in accordance with provisions of state law.

2.01.200 Quorum

The number of Council members necessary to constitute a quorum is three.

2.01.210 Rules Of Order and Procedure-General

Procedural rules or order and procedure not specifically provided herein or by state law, or City ordinance, shall be regulated, interpreted and construed in accordance with the Council's Rules of Order and Procedure as may be adopted by resolution from time to time by the Council.

2.01.220 Board Appointment Duties and Responsibilities

Pursuant to and in accordance with all applicable provisions of these ordinances, of the plan, and of the laws of the state, the appointment and reappointment of members of committees, boards, or commissions within the jurisdiction and under the appointment or consent power of the Council shall be as herein provided.

- A. All committee, board, or commission appointments or reappointments of Council members shall be made annually with the consent of a majority of the Council, except as provided in Subsection B.
- B. The following shall apply to committee, board, or commission appointments involving individuals who are not members of the Council:
 - 1. Boards whose members hold terms of three years or less, board members may be reappointed to a consecutive term on their respective boards with the consent of a majority of the Council; and
 - 2. For boards whose members hold terms of longer than three years, no board member shall be reappointed to a consecutive term on the same board unless, for good cause shown and to prevent significant disruption of current board activities, the Council approves such reappointment.
- C. The restrictions upon the reappointment of board members, as provided under this section, shall be limited to the extent that this section may be in direct conflict with federal or state law and where the appointment of board members is set out by or limited under the laws of the United States or the State of Utah.
- D. When representing Kearns or the Council on any board or similar organization, Council members shall vote according to the will of the Council on those matters for which the Council has taken an official position. In the absence of an official position by the Council, Council members shall exercise their best judgment to determine how best to vote in accordance with the best interests of Kearns.

2.01.230 Greater Salt Lake Municipal Services District (“MSD”)

Kearns is a member of the MSD, which is a special district that provides certain administrative and municipal services to Kearns and its other members, including human resources, finance and budgeting, information technology, communications, planning and zoning, engineering, business licensing, and code enforcement services. The MSD is authorized to act as Kearns’s official agent in providing its services, provided that the Council may direct the MSD personnel assigned to the City and remove or expand the services the MSD provides in accordance with applicable law.

CHAPTER 2.02 -- CITY ADMINISTRATOR

2.02.010 General

The provisions of this Chapter shall apply to the selection and appointment of a City Administrator and shall only apply if the Council elects to appoint a City Administrator.

2.02.020 Process to Appoint City Administrator

The Council may budget for and appoint by ordinance a City Administrator pursuant to a competitive selection process to direct the City’s operations and to serve as the City’s chief administrative officer with authority to implement municipal policy, oversee daily operations of City departments and employees, and exercise any other duties the Council may assign. The City Administrator shall be an at-will employee and shall serve at the pleasure of the Council. The Council may terminate the City Administrator’s employment at any time and for any legal reason. The City Administrator position is not a required position.

2.02.030 Term

The term of office, salary, benefits, duties and termination of the City Administrator shall be set out in written contract prior to the time of appointment, which contract shall be negotiated and approved by a resolution of the Council, except that the Council shall employ the City Administrator for a term not to exceed four (4) years and the contract may not automatically renew. The Council, however, may renew the City Administrator’s term of employment at any time. Any contract the Council may approve regarding a City Administrator’s employment shall comply with the provisions of Section 2.02.020.

2.02.040 Salary

The Council shall establish the City Administrator’s salary, benefits, and other compensation from time to time in accordance with applicable state law and city ordinances.

2.02.050 Powers and Duties

A. The City Administrator shall have the following powers and duties:

1. Exercise the City's administrative powers under the direction and supervision of the Council.
2. Serve as the chief administrative officer to whom all City employees, contractors, and agents shall report. All City employees shall make up the administrative service of the City and, as such, are subordinates to the City Administrator.
3. The City Administrator shall be responsible to the Council for the day-to-day operations of the City and for such other professional duties as assigned or needed
4. The City Administrator shall be at all times under the control and supervision of the Council and shall answer directly to the Council in all matters relating to the City, its employees, functions, relationships, activities and status. The City Administrator may not accept other employment that might interfere in his official capacities with the City, such as consultant work, without the approval of the Council.
5. The City Administrator may examine and inspect the books, records, and official papers of any office, department, agency, board, committee, or commission of the City and make investigations and require reports from all personnel.
6. Except for the purpose of inquiry, the Council and its members shall deal with the administrative service solely through the City Administrator and neither the Council, nor any member thereof, including the Mayor, may give orders to any subordinates of the City Administrator, either publicly or privately.
7. The City Administrator shall have the right to attend and participate in meetings of the Council but shall not have the right to vote in said meetings.
8. The City Administrator may make suggestions to the Council and shall advise the Council on matters of policy, procedure, and business requiring Council approval or awareness.
9. The City Administrator shall use his or her best efforts to lawfully implement the final decisions of the Council to lawfully implement

the final decisions of the Council and shall represent and defend the final decisions of the Council.

10. The City Administrator shall notify the Council and the Mayor of any emergencies existing in any department or matter under his or her supervision.
 11. The City Administrator is designated as the budget officer for the City and shall perform or cause to be performed all of the duties of such office as set forth in the Uniform Municipal Fiscal Procedures Act. As budget officer, the City Administrator shall prepare and submit the annual budget to the Council, along with any proposed amendments to the budget.
 12. The City Administrator shall have the authority to sign all contracts on behalf of the City provided:
 - a. The contract has been approved by the Council, funds to be spent under the contract have been specifically appropriated through the City's budget process, or the contract does not require the expenditure of City funds; and
 - b. The contract does not involve the conveyance of any real property interest of the City.
 - c. The City Administrator shall be employed by the City and carry out such duties and functions as set forth in state and federal law, City ordinances and policy, and as set forth in the City Administrator's job description.
- B. Pursuant to Section 2.01.070.A.2, if the Council does not appoint a City Administrator, the Mayor shall serve as the City's chief administrative officer and shall exercise any duty or responsibility assigned to the City Administrator, subject to the Council's authority to remove such delegation of authority under Section 2.01.080.C.

CHAPTER 2.03 -- RECORDER

2.03.010 Appointment

The Council appoints the MSD to serve as the Recorder in accordance with Utah Code § 17B-2a-1104, or applicable successor statute. Pursuant to applicable state law, the Council may appoint someone other than the MSD to serve as the Recorder, with the advice and consent of the Council.

2.03.020 Oath Required

The Recorder, before assuming the duties of the office, shall take and subscribe the constitutional oath required under state law.

2.03.030 Duties

A. The Recorder shall perform all duties as may by law fall upon him/her as Recorder of a City of the third class under state law. The Recorder shall keep records properly indexed of all City contracts, and the records shall be open to inspection by all interested persons. Unless otherwise provided by ordinance, the Recorder shall be ex-officio City collector. The Recorder shall perform such other and further duties as the Council may by ordinance provide. Within the office of the Recorder a properly qualified employee may be appointed by the Recorder as a deputy Recorder. The deputy Recorder is authorized to perform, and shall perform, all duties of the Recorder during such times when the Recorder is unavailable or unable to perform same. Any official act of the deputy Recorder taken in the absence of the Recorder shall be valid and binding to the same extent as if done by the Recorder. The Recorder, in addition to the powers and duties imposed by law and ordinance, shall perform the following duties:

1. The Recorder shall issue notices to the members of the Council, when directed to do so by that body, and to members of the different committees, boards, or commissions and to all persons whose attendance is required thereto when directed or requested so to do by the chair of such committee. The Recorder shall also issue notices of special meetings of the Council.
2. The Recorder shall attest all licenses granted under this Code or any other ordinance of the City, and shall keep a record of the issuance thereof.
3. The Recorder shall, without delay, deliver to the officers of the City, and all committees of the Council, all resolutions and communications referred to such officers or committees, boards, or commissions by that body.
4. The Recorder shall, without delay, deliver to the Mayor all ordinances or resolutions which may be required to be approved or otherwise acted upon by the Mayor, together with all papers on which the same are founded.

5. The Recorder shall sign and attest all ordinances passed by the Council that are signed by the Mayor or other officer.
6. The Recorder shall certify to the publication of all ordinances, resolutions, or other official documents.
7. The Recorder shall attest all papers officially signed by the Mayor and keep and affix the corporate seal.
8. The Recorder shall keep correct records and minutes of all proceedings of the Council, recording and posting the same to the extent otherwise provided by law.
9. The Recorder shall countersign all contracts made on behalf of the City or to which the City is a party. Any City contract shall be void unless signed by the Recorder. The Recorder shall endorse a certificate upon every bond, warrant, or other evidence of debt issued pursuant to law by the City stating that the same is within the lawful debt limit of the City, and is issued according to law.
10. The Recorder shall deliver to the successor in office the corporate seal, together with all books, papers, records and other property of the City.
11. The Recorder shall have the power to administer oaths in all matters in any way connected with the City government.
12. The Recorder shall attend to all official correspondence and report the same to the Council as needed.

2.03.040 Record of Ordinances to be Kept

- A. The Recorder shall keep records of all ordinances, together with proofs of posting. Before taking effect, all ordinances shall be deposited in the office of the Recorder.
- B. The originals of all ordinances passed by the Council shall be filed in the Recorder's office.
- C. The Recorder shall verify that all ordinances passed by the Council are properly codified by the contracted codifier in a timely manner.

2.03.050 Papers, Records, Transcripts – Copies

Upon request and upon the payment of such fees set by the Council, the Recorder shall make, affix the corporate seal thereto, and certify copies of all papers filed in the Recorder's office and transcripts of all records of which the Recorder is the lawful custodian.

CHAPTER 2.04 -- CITY TREASURER

2.04.010 Appointment

The Council appoints the MSD to serve as the City Treasurer in accordance with Utah Code § 17B-2a-1104, or applicable successor statute. Pursuant to applicable state law, the Council may appoint someone other than the MSD to serve as the Treasurer, with the advice and consent of the Council.

2.04.020 Oath Required

The Treasurer, before assuming the duties of the office, shall take and subscribe the constitutional oath required under state law.

2.04.030 Appointment of Deputies and Assistants

The Treasurer shall have power to appoint from within the office of the Treasurer a properly qualified employee who shall be designated the Deputy Treasurer. The Deputy Treasurer is authorized to perform, and shall perform, all duties of the Treasurer during such times when the Treasurer is unavailable or unable to perform same. Any official act of the Deputy Treasurer taken in the absence of the Treasurer shall be valid and binding to the same extent as if done by the Treasurer.

2.04.040 Powers and Duties Generally

The Treasurer shall receive all money belonging to the City, including all taxes, license fees, utility billings, fines, and other funds owed to or held by the City, and shall keep an accurate and detailed account thereof, in such manner as may be provided by law, and shall collect all special taxes and assessments as provided by law. The Treasurer shall reconcile all accounts with the Recorder, as the Council may direct at the end of every month, and turn over all warrants, interest coupons, bonds or other evidence of the indebtedness of the City which may have been redeemed during the month, taking the receipts of the Recorder therefor, and all such warrants, orders or other evidence of indebtedness shall be cancelled by the Treasurer and have written or stamped thereon the date of their payment or redemption.

2.04.050 Collection of Special Taxes

The Treasurer is ex-officio collector of special taxes.

2.04.060 Receipts to be Given

The Treasurer shall give every person paying money to the City a receipt therefor, specifying the date of payment and upon what account paid; and he/she shall also file the duplicate of such receipt with the Recorder at the date of the monthly report.

2.04.070 Payments

The Treasurer shall not pay any funds owned or held by the City to any person unless the expenditure is duly appropriated and authorized upon action of the Council, the purchasing agent, or the City Administrator (if appointed) as otherwise provided by law.

2.04.080 Investment Decisions at Authorized Banking Institutions

- A. The Treasurer is authorized to take any and all such actions in the name of and on behalf of the City to utilize investment opportunities available at banking institutions approved by the Utah Money Management Act. Such actions shall include but not be limited to setting up sweep accounts, zero balance accounts, automatic transfer of funds accounts and similar deposit and investment arrangements, entering into transactions similar to the foregoing, and performing such actions as may be required in connection with any of the foregoing. From time to time the Treasurer shall present to the Council for approval all necessary resolutions for designation of depository institutions and authorized signatories.
- B. Agreements, instruments, or documents properly executed and delivered to any banking institution approved by the Utah Money Management Act by the Treasurer shall be binding and enforceable obligations of the City, enforceable in accordance with their respective terms.

CHAPTER -- 2.05 CITY ENGINEER

2.05.010 Appointment

The Council appoints the MSD to serve as the Engineer in accordance with Utah Code §§ 10-3-917 and 17B-2a-1104, or applicable successor statute. Pursuant to applicable state law, the Council may appoint someone other than the MSD to serve as the Engineer, with the advice and consent of the Council.

2.050.020 Engineer Required to be Licensed

Each person who serves as the Engineer shall be a registered professional engineer in accordance with applicable state law.

2.05.030 Powers and Duties

The Engineer shall perform all powers and duties required under applicable law, including those powers and duties set forth in Title 10, Chapter 3, Part 9, Utah Code.

CHAPTER 2.06 -- CITY ATTORNEY

2.06.010 Establishment

There is established the office of City Attorney. The person(s) providing legal services to the City as City Attorney may be part-time or full-time employees of the City, or may be independent contractors.

2.06.020 Appointment Generally

The Council shall appoint the City Attorney, who shall serve at the Council's pleasure. The Council may appoint different individuals, firms, or entities to represent the City on civil and criminal matters, and may hire and retain special legal counsel to represent the City on specific matters as the Council may deem necessary. If the Council appoints an independent contractor to serve as City Attorney or to otherwise represent the City on a legal matter, the Council shall make such appointment in accordance with applicable state law and the City's purchasing procedures, as applicable. Persons, firms, or entities providing legal services to the City may do so without a specified term, provided that all contracts for legal services shall authorize the Council to terminate such contracts at any time as the Council may deem necessary.

2.06.020 City Attorney Required to be Licensed

Each person who serves as the City Attorney or otherwise provides legal representation to the City shall be a licensed attorney in good standing with the Utah State Bar in accordance with applicable state law.

2.06.030 Powers and Duties

The City Attorney, and other attorneys the Council may hire or otherwise retain, shall perform all powers and duties required under applicable law, including those powers and duties set forth in Utah Code, Title 10, Chapter 3, Part 9.

2.06.040 Succession

Upon the termination of legal services or upon request by the City, the City Attorney shall promptly deliver to any successor or such person(s) designated by the City copies of all books and papers, including but not limited to those in electronic form, pertaining to pending or concluded city legal matters.

CHAPTER 2.07 -- CITY ETHICS CODE

2.07.010 Purpose

The purpose of this Chapter is to establish the Kearns Ethics Code, which shall apply to all city elected officials, officers, and employees when acting in their official capacity on behalf of the City.

2.07.020 Definitions

- A. For the purposes of this Chapter, the following definitions are in addition to the definitions in Section 1.02.060 and shall control:
1. “Compensation” or “compensated” means anything of economic value, however designated, which is paid, loaned, granted, given, donated, or transferred to any person or business entity for or in consideration of personal services, materials, property, or any other thing whatsoever.
 2. “Conflict of interest” means either a restricted conflict of interest or an unrestricted conflict of interest as defined in this section.
 3. “Financial interest” means, but may not be limited to, any employment by or compensated representation as an agent of any individual, corporation, business entity, organization, or committee. A financial interest also includes any beneficial ownership of one percent or more of a corporation or other business entity.
 4. “Governmental action” means any official action on the part of the City, including, but not limited to:
 - a. Any decision, determination, finding, ruling, or order, or discussions thereof;
 - b. Any grant, payment, award, license, contract, subcontract, transaction, decision, sanction, or approval, or the denial thereof, or the failure to act in respect thereto; or
 - c. Any legislative, administrative, appointive, or discretionary act of any public servant or volunteer public servant.

5. “Representative” means any authorized agent of the City. Representatives shall include any appointed person, other than an employee, serving on a special, regular, or full-time committee, commission, authority, agency, or board of the City, who is not paid a salary or an hourly wage by the City for his or her services thereon.
6. “Restricted conflict of interest” means any financial interest held by the employee or representative of the City, or by members of an employee’s or representative’s household, or those providing regular financial support to the employee or representative.
7. “Unrestricted conflict” or “unrestricted conflict of interest” means any and all other interests including political, family, fraternal, social, and other interests or associations which may reasonably create the appearance or the actuality of a conflict of interest between an employee’s or representative’s outside interest and his or her City responsibilities. “Unrestricted conflict” or “unrestricted conflict of interest” also means other conflicts as defined by state law, and any campaign contribution made to the officer, employee, or representative, or to any member of his or her household, of more than five hundred dollars during the prior calendar year.

2.07.030 Ethics Statement

All employees, before commencing the duties of their respective offices, shall read and review the following ethics statement:

Kearns employees support, obey and defend the Constitution of the United States, the Constitution of the State of Utah, the laws of the State of Utah, and City ordinances, to the best of their abilities and will always strive to meet the highest ethical standards implicit in their employment and in the furtherance of the best public interest.

2.07.040 Ethics Training

All employees shall attend ethics training every two years regarding their ethical duties and responsibilities as established by state law and by this Chapter. This training shall be conducted based on a specific curriculum approved by the Council. Attendance at the ethics training is mandatory.

2.07.050 Government In The Sunshine

- A. Kearns is an open records and open meetings government and all employees are directed to observe, with exactness, all applicable provisions of state statute and City ordinance regarding open records and open meetings including

GRAMA, the Open and Public Meetings Act, and City ordinances and policies regarding those state laws.

- B. In the interests of maintaining openness and transparency in City, all employees are directed to give strong consideration to the application of an impartial balancing test established by GRAMA when determining whether a record should be released. Officers and employees shall seek to achieve GRAMA's express goals of openness while also giving due consideration to individual privacy rights. Where justified, in accordance with GRAMA, and all other considerations being equal, access should be balanced in favor of openness and transparency.
 - 1. As technology presents new developments in the means of communication, including electronic messaging and social media, City elected officials, officers, and employees are directed to apply GRAMA standards of openness or confidentiality based on the content of a record, regardless of the medium used.
 - 2. Because many modern forums of electronic media, including social media, reduce or eliminate the City's ability to retain, store, retrieve and copy such communications, City elected officials, officers, and employees are encouraged to seek appropriate and cost-effective solutions to make City records that are transmitted in electronic media and are classified as public to be more available for public review and distribution.
- C. All City meetings of any deliberative board, committee, or agency, including boards or committees conducting quasi-judicial administrative hearings, are directed to conduct all aspects of their decision making process in accordance with the Open and Public Meetings Act, including both the gathering of evidence and deliberations regarding a decision, in an open and public meeting, with appropriate notice and minutes, unless the nature of the hearing permits closure to the public under exceptions provided in state law.
- D. Under rare circumstances, where a deliberative body has good cause to close only its deliberation sessions, and is within the provisions and intent of state law, the body may conduct only its deliberative process in private.
- E. All other provisions of state law and the Open and Public Meetings Act shall be otherwise applicable to all City bodies and meetings as defined in the law and to those exceptions in statute which permit closed meetings, under the circumstances and in accordance with the provisions of the Open and Public Meetings Act.

2.07.060 Conflicts of Interest

- A. General prohibitions.

1. Employees are governed by the Municipal Officers' and Employees' Ethics Act, Utah Code, Title 10, Chapter 3, Part 13, regarding personal interests and conflicts that are prohibited or that require disclosure.
2. Officers, employees, and representatives are prohibited from using non-public information in a manner that could provide themselves or another any gain or benefit.
3. Officers, employees, and representatives shall not use or attempt to use their position in a manner that could secure special privileges or exemptions for themselves or others.
4. Employees and representatives are prohibited from engaging in any outside activity, or financial investment which constitutes a restricted conflict of interest where such conflict could impair their judgment regarding the faithful performance of City responsibilities or official actions.

B. Restricted conflicts of interest.

1. City employees and representatives are required to fully and publicly disclose any restricted conflict of interest and shall recuse themselves from, and have no involvement in, any governmental action in which they have a restricted conflict of interest.
2. If an employee or representative is not aware of the financial interest, he or she must disclose the financial interest and recuse as soon as he or she learns of the financial interest.
3. Any action, vote, contract, or other governmental action which has been undertaken by an officer, employee, or representative who has a restricted conflict of interest shall be terminable by the body that took the action, or by the City officer with authority to void or terminate the action. That body or the applicable City officer may also ratify any prior governmental action that was taken in violation of this section.

C. Unrestricted conflicts of interest.

1. Employees must publicly disclose any and all unrestricted conflicts of interest at any meeting, hearing, or deliberation where the employee or representative is present and the unrestricted conflict of interest could impair the judgment of the employee or representative.
2. Employees who have unrestricted conflicts are not required to recuse themselves but may do so.

D. Disclosure.

1. Employees are required to comply with all legal requirements setting a responsibility to disclose restricted and unrestricted conflicts of interests between their public duties and private activities. In particular, employees are bound by the requirements of the Municipal Officer's and Employees Ethics.
2. Oral or written disclosures must be made in accordance with state law, other sources of the law, and this section.
3. Employees are required to file written disclosures in accordance with the provisions of state law and City ordinance. All written disclosures must be kept current and are filed both with the officer or employee's immediate chain of command and with the Council.

E. Contractual representatives.

1. Individuals and business entities who contract to represent the City's interests shall disclose to the City the names of other clients they represent and those clients' respective issues and interests that are relevant to the City's interests. Unless they receive written permission and waiver from the Mayor and Council, such individuals or business entities are prohibited from representing other clients about the same or substantially same issues and interests as covered by the City representation.
2. Individuals and business entities who contract to represent the City's interests by lobbying the State Legislature or any other municipal, state or federal office or agency are prohibited from engaging in any lobbying of City officers, employees, agencies or offices, as defined in this Chapter.

2.07.070 City Endorsements

Notwithstanding the provisions of this Chapter, the City or a City employee may encourage support from a public or private individual or institution, whether in financial contributions or by other means, on behalf of an organization or activity that benefits the community.

2.07.080 Gifts

City employees shall not knowingly accept or solicit any gift for themselves, family members or organizations of the officer or employee or others, except as permitted in Section 2.07.110.

2.07.090 Gifts And The Procurement Process

- A. Without exception, receipt or solicitation of any gift or a request for employment by a purchasing agent from any person including a vendor of goods, seller or buyer of real property, or service provider is illegal and punishable as provided by statute.
- B. It is unlawful and punishable as provided by statute for any payment, gift or offer of employment to be offered or made by any person to a public officer or employee or contractor of the City to obtain a specific procurement, disposal, contract, or subcontract.
- C. Contracts entered into resulting from a violation of this section are voidable and any payments made on these contracts shall be recoverable to the City.

2.07.100 Honoraria

Officers and employees of the City shall not accept honoraria in regard to activities related to their City duties or purpose except as provided in Section 2.07.207.

2.07.110 Exceptions

The following are exceptions to the gifts and honoraria requirements of this Chapter:

- A. The gift is a political contribution authorized by law and reported as part of the campaign disclosure requirements of the City or any other governmental entity;
- B. Token items of nominal value, including but not limited to, educational materials, t-shirts, coffee mugs, parking validations or other commemorative or similar souvenir items;
- C. Snacks, beverages or educational or informational materials provided at meetings or other functions;
- D. Transportation to and attendance at conventions, seminars, or events of a primarily educational nature, including meals and entertainment that are part of the required registration, and any associated educational or informational materials directly related to the official duties of the officer or employee;
- E. Gifts not related to the activities of the officer and employee with the City;
- F. Awards publicly made for public service;

- G. Food or a beverage given at a widely attended reception, meal, or meeting by an organization before whom the recipient appears to represent the City, make a speech, answer questions or participate in part of a program;
- H. Attendance at political events that are primarily sponsored by a political party or political candidate;
- I. Flowers, plants, balloons, or similar tokens which are given to express condolences, congratulations, or sympathy for ill health, or to commemorate holiday or special occasions;
- J. City-sponsored programs, activities, or work;
- K. Gifts for the City that become the property of the City;
- L. Gifts to City officers, employees or agencies from other City officers, employees or agencies;
- M. Death transfers including bequests and inheritances; and
- N. Gifts to blind trusts related to legal defense funds for imminent or pending litigation against officers or employees related to their official duties.

2.07.120 Restrictions on Post-City Employment

- A. When an employee, excluding uncompensated volunteers, voluntarily leaves City service they are prohibited for a period of one year from directly communicating, for compensation, with the City for the purpose of attempting to influence any action on any matter pending before the City. This prohibition does not apply to routine government services which do not require the exercise of discretion or to the normal scope of a person's licensed professional capacity.
- B. Any private business entity or individual whose employee or contractor is found to be in violation of this section shall be prohibited from contracting or conducting any non-statutory transaction with the City for a period of one year from date of the violation.
- C. A former officer or employee is not prohibited from holding any City office, but must disclose in writing and resolve any conflicts of interest arising from their previous City employment which conflicts of interest would tend to interfere with the City's best interest.

2.07.130 Nepotism

The Council shall adopt and maintain a policy to comply with Utah Code, Title 52, Chapter 3, Prohibiting Employment of Relatives, or as it now exists or as it may hereinafter be amended.

2.07.140 Political Activities of Employees

- A. Except as otherwise provided by law, City officers or employees may voluntarily participate in political activity subject to the following provisions:
1. No person shall be denied the opportunity to become an applicant for a position under the merit system in any covered department by virtue of political opinion or affiliation.
 2. No person employed by the City under the merit system may be dismissed from service as a result of political opinion or affiliation.
 3. A City career service employee may voluntarily contribute funds to political groups and become a candidate for public office.
 4. No City officer or employee, whether elected or appointed, may directly or indirectly coerce, command, or advise any officer or employee covered under the merit system to pay, lend, or contribute part of his or her salary or compensation or anything else of value to any party, committee, organization, agency, or person for political purposes. No City officer or employee, whether elected or appointed, may attempt to make any officer's or employee's personnel status dependent upon the officer's or employee's support or lack of support for any political party, committee, organization, agency, or person engaged in a political activity.
 5. No officer or employee may engage in any political activity during the hours of employment nor shall any person solicit political contributions from City employees during hours of employment for political purposes, but nothing in this section shall preclude voluntary contribution by a City employee to the party or candidate of the employee's choice.
 6. Nothing contained in this Chapter shall be construed to permit partisan political activity by any City officer or employee who is prevented or restricted from engaging in such political activity by the provisions of the federal Hatch Act.
- B. Officers and employees, including employees covered by a merit system, may become candidates for political office or for leadership positions in political parties. Officers and employees doing so shall refrain from engaging in any political activities or campaigning during City working hours. Officers and

employees may take an unpaid leave of absence in order to run for political office. Such a leave is at the employee's discretion and may be for some or all of the time between filing a declaration of candidacy and the end of the political campaign. No adverse employment action may be taken against officers or employees who file for office or take a leave of absence.

2.07.150 Prohibitions On Political Use Of City Resources

No employee shall use any property or resources of the City, including but not limited to time, other City employees, equipment, material, the City seal, buildings or facilities in connection with any political activity, except in accordance with established City policy regarding the acceptable use of public resources.

CHAPTER 2.08 -- ADMINISTRATIVE ORGANIZATION

2.08.010 Ordinance Requirements

- A. The function of proposing, considering, reviewing, approving, or enacting ordinances is a legislative process which lies solely within the power, authority and discretion of the Council pursuant to law. The Council may, at its discretion, provide for the limited delegation of certain powers and activities to other committees, persons, or entities to assist in the preparation of proposed City ordinances. The legislative committee is established to serve as an advisory body to assist the Council in the consideration of City ordinances.
- B. Upon review, approval and adoption by the Council, the proposed ordinance shall be legally effective upon the date indicated in the ordinance and signed by the Mayor, attested by the Recorder, and posted or published as required by State law.
- C. Ordinances which in the opinion of the Council are necessary for the immediate preservation of the peace, health, or safety of the City and the inhabitants thereof may, if so provided in the ordinance, take effect immediately upon publication or posting as required by state law.

2.08.020 Council Initiated Policies And Procedures

If a majority of the Council suggest a policy or procedure, the City Administrator, or Mayor, if there is no City Administrator, shall refer the matter for adoption in accordance with Chapter 2.01.

2.08.030 Policies And Procedures--Adoption

All policies and procedures the Council adopts must bear the signatures of the Mayor and Recorder.

2.08.040 Policies And Procedures--Recordkeeping And Distribution

It shall be the responsibility of the Council to keep a current record of all Council-approved policies and procedures.

2.08.050 Conflict Between Policies And State laws

Whenever a City policy and procedure conflicts with a state law or an ordinance of the City, the statute supersedes the ordinance and the policy and procedure. An ordinance supersedes a City policy and procedure.

2.08.070 Discrimination Prohibited

Discrimination in City government services based on age, marital status, color, disability, national origin, sex, sexual orientation, gender identity, race or religion is prohibited. Individuals shall be assured of equal access, opportunity and protection in all areas of City government services. This section is not intended to expand the services of City government beyond those required by state or federal law.

CHAPTER 2.09 -- CITY LITIGATION

2.09.010 Litigation--Control And Direction

Any litigation involving or against the City is governed by the provisions of state law and applicable case law precedents.

2.09.020 Litigation Against the City

The legal authority of any employee, acting in an official capacity, to engage in litigation against or on behalf of the City or against any City official, officer or employee must be within that employee's express authority under state law or City ordinance. If the employee has no such legal authority, City funds shall not be used to pay attorney's fees or other legal costs, except in the following circumstances:

- A. The use of City funds is approved in advance by the Mayor, Council, and attorney; or
- B. The litigation against the City or its officials, officers or employees ultimately and substantially succeeds on the merits or payment is ordered by the court.

2.09.030 Limitations

- A. Nothing in this Chapter shall be construed to authorize any City employee to bring a lawsuit against the City.

- B. Nothing in this Chapter shall be construed to limit the authority of a court of competent jurisdiction from levying costs or attorneys' fees in accordance with applicable law.

CHAPTER 2.10 -- ESTABLISHING FEES

2.10.010 Fee Requirements and Limitations

The Council may impose fees for providing government services in accordance with the provisions of this Chapter and as may be required or permitted by law. Fees shall be calculated and imposed in an amount that will reimburse the City for its expenses in enforcing regulations or providing services or benefits and may not be imposed in an amount which significantly exceeds those costs.

2.10.020 Fee Establishment Process

- A. The Council shall approve all City fees.
- B. In establishing the amount of a fee, the Council may consider costs and other elements it deems relevant in accordance with applicable law, including:
 - 1. City employee expenses, including full compensation costs of all employees normally required to provide the services;
 - 2. All direct costs:
 - a. For internal division costs, in accordance with accepted accounting standards; and
 - b. For City indirect costs, in amounts established by the auditor's office;
 - 3. Any expenditures the City is required to make to other government entities, private contractors or other third parties;
 - 4. Reserves for liability, asset replacement, and capital improvements; and
 - 5. Costs and materials of other direct operational expenses.
- C. Fees shall be posted and available to the public either electronically or by physical posting at the City offices or within a public place within the City.
- D. Fees may be amended at times other than during budget approval by submitting a letter requesting a fee amendment to the Council for its review and approval.

2.10.030 Council Powers--Fees

- A. The Council shall review and approve a schedule of all fees imposed by the City by resolution.
- B. The City Administrator, or the Mayor, in the absence of a City Administrator, may waive or adjust fees, in accordance with the following standards and procedures:
 - 1. The City may only waive a fee specifically established by state law in accordance with state law.
 - 2. Any waiver of a fee shall be upon good cause shown and in the public interest and shall be in writing.
 - 3. Fees such as late fees or service charges may also be waived, based on the standards and processes established in this ordinance.

CHAPTER 2.12 -- QUASI-JUDICIAL FUNCTIONS STANDARDS OF CONDUCT

2.12.010 Purpose

The Council recognizes the importance of guaranteeing both the reality and perception that all individuals appearing before quasi-judicial officials or bodies in the City are afforded a full, fair, and impartial hearing on the merits. The Council finds it in the best interests of the citizens of the City to provide uniform standards of conduct for all members of quasi-judicial bodies. To that end, the Council hereby provides uniform standards of conduct for individuals performing quasi-judicial functions in the City.

2.12.020 Definitions

For the purposes of this Chapter, the following definitions are in addition to the definitions in Section 1.02.060 and shall control:

- A. A “conflict of interest” exists when a quasi-judicial official has a direct or indirect financial interest which will be or is reasonably likely to be affected by the outcome of the matter currently pending before the official; or resolution of the matter before the official will or is reasonably likely to create a material personal gain or provide a gain or advantage to relatives, friends, agents, business associates, or to groups and associations which hold some share of the official’s loyalty. membership in a group or association alone shall not be considered a conflict of interest with respect to any matter affecting such group or association unless a reasonable and informed person would conclude that such membership in itself would prevent an objective quasi-judicial consideration of the matter.

- B. “Ex-parte contact or communication” means contact by one side only of a matter before an individual, board or Council when said individual, board or Council is acting in a quasi-judicial capacity and the contact is outside of the hearing or official proceedings in the matter.
- C. “Interested party” in a quasi-judicial proceeding means any applicant, party, representative or agent of an applicant or party, any person or entity who may claim to be adversely affected by the resolution of a matter or any issue of fact or law related to a matter, and any person or entity who claims a substantial property interest which could be adversely affected by the resolution of a matter or an issue of fact or law related to a matter.
- D. “Legislative capacity” means activity by the Council when involved with the framing and enactment of ordinances and policies for the City included without limitation in such category is the adoption of or amendment to the Code of ordinances, policies and procedures, or administrative rules of the City.
- E. “Quasi-judicial capacity” means the role of an individual, board, or Council acting to investigate facts and draw conclusions therefrom as a basis for its official actions and the exercise of discretion of a judicial nature is a matter which is currently before the individual, board or Council, or which would come under the individual’s, board’s or Council’s jurisdiction pursuant to an appeal of an administrative determination including the Council. In determining whether the individual or entity is quasi-judicial in nature, the nature of the activity engaged in shall control over the Title of the individual or entity or the other duties assigned to or otherwise engaged in by the individual or entity.

2.12.030 Conflict of Interest

- A. Any official acting in a quasi-judicial capacity with or reasonably likely to have a conflict of interest with regard to an applicant or its agent who has a matter before the official, must declare his or her conflict of interest and the nature of the interest giving rise to the conflict publicly prior to discussion of the matter and enter the same upon the record of the proceeding. The official must abstain from deliberating or voting on the matter and may not discuss the matter either publicly or privately with any other official participating in the proceeding. The vote of an official experiencing a conflict of interest who fails to disqualify himself shall be disallowed.
- B. A conflict of interest may exist under this section although an official may not believe that an actual conflict exists. Therefore, any official who has a question as to whether a conflict of interest exists under this section with respect to his or her participation or the participation of another official participating in the proceeding should raise the matter with the other officials participating in the

proceeding at a public meeting and with the attorney's office in order that a determination may be made as to whether a conflict of interest exists.

2.12.040 Gifts and Favors

No quasi-judicial official, relative or agent of a quasi-judicial official shall accept any gift, favor, or advantage from any party, individual, or from their agents or representatives if the party or individual has a matter currently before the quasi-judicial body or in circumstances when the quasi-judicial official has knowledge that said party or individual intends to or commonly brings matters before the quasi-judicial official for adjudication. Gifts, favors or advantages shall not include a meal with a value of less than twenty-five dollars provided in conjunction with a meeting at which the subject of a quasi-judicial proceeding is discussed. The meal and the communication shall be disclosed pursuant to Section 2.11.050(B). Campaign contributions shall be subject to all other provisions of applicable law but shall not be prohibited under this section.

2.12.050 Ex-Parte Communication

- A. No quasi-judicial official shall initiate contact or initiate discussion with any party or the representative or agent of any party or a person who may claim to be "adversely affected" by the resolution of the matter with respect to an issue of law or fact in issue on a matter which is either currently before the quasi-judicial official for adjudication or which is reasonably likely to come before the quasi-judicial official unless the official provides notice to all parties and an opportunity to participate. Any such discussion, after notice and with an opportunity for participation by the public or other affected parties, shall occur in a meeting duly convened and noticed pursuant to the Utah Open Meetings Act and shall be made a matter of the official record of the proceeding.
- B. Any quasi-judicial official who receives an ex-parte communication with respect to a matter which is either currently before the official or reasonably likely to come before the official shall, at the next public meeting following the communication, place into the official minutes or record the following:
 - 1. The name of the party making the communication;
 - 2. If the communication was in writing, a copy of the communication;
 - 3. If the communication was oral, a summary of the communication;
 - 4. The date of the communication.
- C. Following disclosure of the communication at the hearing on the matter, the public and opposing parties shall be given an opportunity to submit written responses to the communication prior to the quasi-judicial official or entity

closing the evidentiary phase of the proceedings. All ex-parte communication, with the exception of discussions of procedural matters such as the dates and times of hearings, is prohibited after the conclusion of the evidentiary phase of the proceedings.

- D. Engaging in prohibited ex-parte communications or the failure of a quasi-judicial official to disclose a communication and place the communication or a summary of it in the public record shall be grounds for voiding the official's vote on the matter.
- E. An ex-parte contact or communication does not include:
 - 1. Discussions of procedural matters such as the dates and times of hearings which are unrelated to the merits of the appeal, proceeding or motion;
 - 2. Communications by the quasi-judicial official, whether in person or otherwise, with City employees or representatives.

2.12.060 Other Provisions Applicable

The standards of conduct provided for by this Chapter are in addition to other legal requirements imposed on quasi-judicial officials and bodies of the City including the Municipal Officers and Employees Ethics Act, the Governments Records Access and Management Act, the Open and Public Meetings Act and City ordinances and policies applicable specifically to the quasi-judicial body.

CHAPTER 2.13 -- SECURITY OF PERSONAL IDENTIFIERS

2.13.010 Definitions

For the purposes of this Chapter, the following definition is in addition to the definitions in Section 1.02.060 and shall control:

- A. "Personal identifiers" means and includes an individual's home address, home telephone number, personal cellular telephone number, signature, social security number, birth date, personal email address, driver's license number, passport number, and any financial identification numbers, including, but not limited to, bank account numbers, credit card numbers and information obtained to authenticate a cardholder or effectuate a payment card transaction.

2.13.020 Protecting Personal Identifiers

The City shall ensure that all personal identifiers in the City's control are kept confidential and secure and are not used for any purpose other than a bona fide government necessity pursuant to the Utah Government Data Privacy Act, Utah Code, Title 63A, Chapter 19.

- A. The City shall not collect or maintain personal identifiers except where provided by law or ordinance, or where necessary to the functioning of the City. The collection of credit card numbers is permitted for those agencies which accept payment, in the regular course of county business, by credit card.
- B. Any City agency which collects, maintains or transmits personal identifiers shall make a formal determination, in writing, which explains why personal identifiers are collected, maintained or transmitted and explains which specific personal identifiers are necessary. Agencies shall collect or use only those specific personal identifiers which are necessary to government business.
- C. Except for outside contractors that provide administrative services for the City, each City agency shall have in place a written regulation or policy which establishes procedures for the secure collection, maintenance, transmission, transfer, or disposal of personal identifiers.
- D. City agencies are bound by the provisions of state and federal law regarding the public or confidential nature of records containing personal identifiers, including but not limited to GRAMA and the federal Health Insurance Portability and Accountability Act (HIPAA) of 1996.

2.13.030 Private Contractors

If the City contracts with a private entity and the contract contemplates or provides for the transmission or use of any individual's personal identifiers, the contract shall include mandatory provisions requiring that the contractor exercise care to ensure the protection of personal identifiers and that the contractor shall be legally liable for any breach of that duty.

2.13.040 Penalty

Any City officer or employee who knowingly violates this Chapter may be guilty of a Class B misdemeanor and shall be subject to appropriate disciplinary action.

CHAPTER 2.14 -- RECORDS MANAGEMENT

2.14.010 Government Records Findings--Recognition Of Public Policy

The Council finds the following:

- A. It is in the best interests of the City and the citizens thereof, and essential for the administration of the City government, to maintain and preserve accurate governmental records; to provide ready access to records which are defined by law as open to the public; to maintain the security of records which are defined

by law as nonpublic; and to ensure the preservation of vital and historically valuable records.

- B. As the records of the City are a resource containing information which (1) allows government programs to function; (2) provides officials with a basis for making decisions and ensuring continuity with past operations; and (3) permits citizens to research and document matters of personal and community importance; this resource must be systematically and efficiently managed.
- C. It is the policy of the City that all governmental records, which are defined by applicable Utah statutory and case law as public records, shall be made available to citizens as set forth in this Chapter.
- D. The City recognizes a public policy interest in allowing the government to restrict access to certain records, as specified in the Act and this Chapter, for the public good.

2.14.020 Purpose And Intent

In enacting this Chapter, it is the purpose and intent of the Council to provide, in accordance with GRAMA, public records and access thereto and providing for its application in the City.

2.14.030 Public Access

- A. Members of the public shall have the right to see, review, examine and take copies, in any format maintained by the City and subject to applicable ordinance, of all City governmental records designated as “public” under the provisions of this Chapter, and of GRAMA and policies and procedures developed hereunder.
- B. The City has no obligation to create a record or record series in response to a request from a member of the public, if the record requested is not otherwise regularly maintained or kept.
- C. When a record is temporarily held by a custodial county agency, pursuant to that custodial agency’s statutory and ordinance functions, such as records storage, investigation, litigation or audit, the record shall not be considered a record of the custodial agency for the purpose of this Chapter. The record shall be considered a record of the agency or agencies which usually keeps or maintains that record and any requests for access to such records shall be directed to that agency or agencies, rather than the custodial agency, pursuant to procedures established by the county. Only when records have been formally filed for permanent archival retention shall county archives be responsible for responding to requests for another agency’s records.

2.14.040 Appeals

- A. Persons aggrieved by the City's classification of a record, the fees charged for a record, or by a response to a record request may request and be granted an initial administrative appeal of that grievance, in accordance with countywide policies and procedures adopted by the Council. The initial administrative appeal is made to the City Administrator, or Mayor, if there is no City Administrator.
- B. A written notice of appeal shall be filed with the City Administrator, or Mayor, if there is no City Administrator. within thirty calendar days after notice of the date of the action has been sent. The notice of appeal shall state the basis of the appeal and the relief requested.
- C. Unless otherwise stipulated by the City and the persons aggrieved, the City Administrator, or Mayor, if there is no City Administrator. shall have seven (7) calendar days after the City Administrator's, or Mayor's, if there is no City Administrator, .receipt of the notice of appeal (or fourteen calendar days after the City sends a notice of appeal to a person who submitted a claim of business confidentiality) to respond to the record request.
- D. The City Administrator, or Mayor, if there is no City Administrator, shall hear an appeal using a reasonable process chosen within the City Administrator's, or Mayor's, if there is no City Administrator. discretion and issue decision in writing to appellant.
- E. If the City Administrator, or Mayor, if there is no City Administrator, affirms the access denial or fails to respond to the records request within the time limits listed above, it shall be considered a denial and the person aggrieved may then appeal the decision to affirm the access denial in accordance with state law.

2.14.050 Amendments And Corrections

Records held by the City may be amended or corrected as needed and as authorized by law. Requests for amendments, corrections or other changes shall be made in writing setting forth, with specificity, the amendment or correction requested and the reason for the change. When an amendment or correction of a government record is made, generally both the original record and the amended or corrected record shall be retained, unless the nature of the record indicates otherwise or as may be provided by policies and procedures adopted under the provisions of this Chapter.

2.14.060 Access Management And Archiving

- A. The Recorder shall serve as the City's records manager and shall oversee and coordinate records access and management and the City archives activities. The

records manager shall make annual reports of records services activities to the Council.

- B. The records manager shall develop and provide records management, maintenance and access standards, policies and procedures, as approved by the Council to govern and implement the provisions of GRAMA and this Chapter. Approval and promulgation of records policies and procedures shall be in accordance with the provisions of this Code of ordinances and the Act. Copies of any rule or policy promulgated under this Chapter shall be forwarded by the City record manager to the Utah State Division of Archives within thirty (30) calendar days after its effective date.

2.14.070 Custody And Control

- A. Records maintenance procedures shall be developed to ensure that due care is taken to maintain and preserve City records safely and accurately over the long term. The records manager shall be responsible for monitoring the application and use of technical processes in the creation, duplication, and disposal of City records and shall monitor compliance with required standards of quality, permanence, and admissibility pertaining to the creation, use and maintenance of records. City policies and regulations regarding types and formats of papers, inks, electronic media, and other records and information storage media, materials, equipment, procedures and techniques shall be developed and promulgated, subject to the approval of the Council.
- B. All City records which constitute an intellectual property right shall remain the property of the City unless federal or state legal authority provides otherwise. All other records shall be the property of the state. Property rights to City records may not be permanently transferred from the City to any private individual or entity, including those legally disposable obsolete City records of City archives or other agencies. This prohibition does not include the provision of record copies for release or distribution under this Chapter. All records disposals shall be conducted in accordance with policies and procedures.
- C. Any City officer or employee having custody or control of any City records shall, at the expiration of their terms of office, appointment or employment, deliver custody and control of all records kept or received by them to their successors, supervisors, or to the City records manager.

2.14.080 Retention Scheduling

- A. All City records as defined by state law, whether hard copy, electronic or otherwise, shall be scheduled for retention and retained based on the standards and requirements set out in the Act and this ordinance.

- B. The responsibility for developing retention schedules shall reside with the Council, with the assistance and advice of the county records manager.
- C. In scheduling records for retention, the following considerations shall be taken into account:
 - 1. Any specific retention requirement established by law, statute or ordinance;
 - 2. Reasonable records standards and needs, based on best business practices, retention storage capabilities, and particular industry or professional requirements or standards;
 - 3. Legal needs, including pending or likely litigation;
 - 4. Applicable statutes of limitation;
 - 5. Any pending fiscal or performance audit process;
 - 6. Administrative and policy needs; and
 - 7. Historical value.
- D. Based on the considerations in subparagraph C, a record may have an extremely limited retention schedule, permitting the deletion of a record immediately or after administrative need ceases. Such records may be deleted immediately and without further processing.
- E. City officials and employees shall observe and adhere to all applicable retention schedules. Records which have reached the end of their retention schedules should be deleted, removed or destroyed in a timely manner.

CHAPTER 2.15 EMERGENCY RESPONSE AND RECOVERY

2.15.010 Intent--Liberal Construction

It is the intent of this Chapter to provide the organization, powers, and authority necessary to enable the timely and effective use of all available City resources to prepare for, respond to and recover from emergencies and disasters likely to affect the health, security, safety, or property of the inhabitants of the City. It is intended to grant the broadest powers permitted. The provisions of this Chapter shall be liberally construed to allow for the greatest opportunity to preserve and protect life and property.

2.15.020 Definitions

As used in this Chapter, the following definitions are in addition to the definitions in Section 1.02.060 and shall control:

- A. “Attack” means a nuclear, conventional, biological, or chemical warfare action against the United States of America, the State of Utah, Salt Lake County, or the City.
- B. “Disaster” or “emergency” means a situation causing or threatening to cause widespread damage, injury or loss of life, or significant property damage resulting from an attack, internal disturbance, natural phenomena, public health emergency, or technological hazard.
- C. “FEMA” means the Federal Emergency Management Agency.
- D. “Internal disturbance” means a riot, prison break, disruptive terrorism, or a widespread strike, which strike causes significant social disruption or injury to persons or property.
- E. “Natural phenomena” means any earthquake, tornado, storm, flood landslide, avalanche, forest or range fire, drought or epidemic.
- F. “Public health emergency” means an occurrence or imminent credible threat of an illness or health condition caused by bioterrorism, epidemic or pandemic disease, or novel and highly infectious agent or biological toxin, that poses a substantial risk of a significant number of human fatalities or incidents of permanent or long-term disability. Such illness or health condition includes an illness or health condition resulting from a natural disaster Utah Code § 26-23b-102(b).
- G. “State of emergency” means a condition in the City which requires City government emergency assistance to save lives and to protect property, public health and safety, and to reduce the threat and effects of a disaster.
- H. “Technological hazard” means any hazardous materials spill or accident, mining accident, train derailment, aircraft crash, radiation incident, pollution, structural fire or explosion.

2.15.30 Declaration Of An Emergency

- A. The Mayor is authorized to declare a state of emergency when the Mayor finds that the City or any part thereof is suffering from or is in imminent danger of suffering an emergency or disaster.

- B. Any declaration of an emergency or disaster by the Mayor shall be distributed by Recorder who shall distribute the declaration on the Utah Public Notice Website, on the City's official webpage, and at a designated City location, and the public shall be notified through general publicity of the declaration. The Mayor shall promptly notify the Council of any declaration of an emergency or disaster.
- C. The declaration of an emergency or disaster shall be in effect as determined by the Mayor for a period of up to thirty (30) calendar days in accordance with the Disaster Response and Recovery Act. This period may be continued or renewed only upon the approval of the Council. The Council may, by resolution, express its opinion regarding an emergency declaration by the Mayor.
- D. The declaration of an emergency provided in this Chapter shall become effective immediately upon issuance by the Mayor and the only required publication is the general dissemination to the public by appropriate news media.
- E. The declaration shall, to the extent possible, state the nature of the emergency, the area threatened, and any applicable duration, conditions, actions or needs pursuant to Section 2.15.050. The declaration may be amended and periodically brought up to date as needed.

2.15.040 Succession

- A. If the Mayor is unavailable to perform the duties set out herein, the Mayor Pro Tem shall have the same authority as granted to the Mayor. If both the Mayor and the Mayor Pro Tempore are unavailable, the authority to exercise the powers set out in this Chapter vests in the Chief of the Unified Fire Authority.
- B. Notwithstanding the order of succession set forth in subsection A, if the Mayor is unavailable to issue an evacuation order as set forth in Section 2.15.050, only the fire official assigned to the City by the Unified Fire Authority may issue an evacuation order, including any orders establishing evacuation routes, for a period not to exceed thirty-six hours, if the order is necessary for the preservation of life. The Mayor may ratify, modify, or revoke the fire official's order if he becomes available.

2.15.050 Powers of the Mayor

- A. In a state of emergency, declared by either the Mayor or the governor, the Mayor is empowered to make all necessary efforts to respond to, prevent, or ameliorate the effects of an emergency or disaster, including, but not limited to, using all City resources, issuing evacuation orders, establishing evacuation routes, suspending the sale of alcoholic beverages, controlling entry to and exit from any disaster area, clearing or removing debris or wreckage, invoking the

provisions of any mutual aid agreement with another governmental entity, and such other powers and authority which are reasonably necessary for the preservation of life and property and as may be set out the Utah Disaster Response and Recovery Act.

- B. The Mayor shall have full power to secure the availability of supplies, clothing, vehicles, fuel, equipment, food and water as may be reasonably necessary to respond to the emergency.
- C. In a state of emergency, the Mayor may:
 - 1. Exercise emergency powers and functions in response to the exigencies of the disaster, including waiving compliance with any time consuming procedures and formalities, including notices, as may otherwise be required.
 - 2. Issue any and all such other orders or undertake such other functions and activities as the Mayor reasonably believes is required to protect the health, safety, or welfare of persons or property within the City or to otherwise preserve the public peace or to abate, clean up, or mitigate the effects of any emergency or disaster. Rules and regulations adopted by the Mayor in response to the state of emergency have the force and effect of law, upon filing with the county clerk. All rules and regulations adopted in response to a state of emergency shall expire once the state of emergency is no longer in effect.
- D. In a state of emergency, the Mayor is responsible to:
 - 1. Coordinate the activities and management of private volunteers, including maintaining records of volunteer work in accordance with FEMA needs;
 - 2. Ensure that all records and receipts for funds expended in emergency response are maintained in accordance with FEMA's needs;
 - 3. Coordinate and ensure prompt communication with the media about the emergency, providing to the extent possible, one consistent voice regarding county activities; and
 - 4. Maintain ongoing communication with the Council, the MSD, the Unified Fire Authority, and other government entities.
- E. In the event of a public health emergency, the Mayor may declare a state of emergency at the request of the director of the health department or the board of health. To prevent or contain the outbreak and spread of a communicable or

infectious disease, the Mayor, together with the director of the health department, may issue orders to:

1. Close theaters, schools, and other public places and prohibit gatherings of people when necessary to protect the public health. (Utah Code § 26A-1-114(1)(e));
 2. Exercise physical control over property and over individuals as the Health Department finds necessary for the protection of public health. (Utah Code § 26A-1-114(1)(b));
 3. Exclude from school attendance any person, including teachers, who is suffering from any communicable or infectious disease, if the person is likely to convey the disease to those in attendance. (Utah Code § 26A-1-114(3)(b));
 4. The authority of the director of the health department extends to a public health emergency wholly located within a municipality.
- F. UPD's officers and such other law enforcement and peace officers as may be authorized by the Mayor are further authorized and directed to enforce the orders, rules and regulations made or issued pursuant to this Chapter.
1. During the period of a declared emergency or disaster, a person shall not:
 - a. Enter or remain upon the premises of any establishment not open for business to the general public, unless such person is the owner or authorized agent of the establishment;
 - b. Violate any orders duly issued by the Mayor or authorized personnel; or
 - c. Willfully obstruct, hinder, or delay any duly authorized government officers, employees or volunteers in the enforcement or exercise of the provisions of this Chapter, or in the undertaking of any activity pursuant to this Chapter.

2.15.060 Powers Of The Council

- A. Nothing in this Chapter shall prevent the Council from acting as the legislative body of City government in a state of emergency, or from exercising those powers and authorities set out in state law. The Council's legislative authority shall include the power to legislate, budget, and appropriate and to perform any other duties as required by state law and by the plan.

- B. The Council shall also fulfill those duties and responsibilities as required by any emergency response declaration or order to the extent it does not conflict with federal, state, or local law, or the provisions of this Chapter.

2.15.070 Relocation Of Offices

- A. Whenever an emergency or disaster makes it imprudent or impossible to conduct the affairs of the City at its regular locations, the Council may meet at any safe and convenient place, inside or outside Salt Lake County. Any temporary meeting location shall continue until a new location is established, the emergency or disaster is terminated, or City operations are able to return to their normal locations.
- B. Any official act or meeting required to be performed at any regular location of the Council is valid when performed at any temporary location under the terms of this section.

2.15.080 Mutual Aid

- A. The Mayor may, on behalf of the City, enter into such reciprocal aid, mutual aid, interlocal cooperation agreements, or other contracts or plans with other governmental entities for the protection of life and property. Such agreements may include the furnishing or exchange of supplies, equipment, facilities, personnel and services and do not require fair and adequate consideration.
- B. The City may act as a participating political subdivision consistent with the Statewide Mutual Aid Act, Utah Code, Title 53, Chapter 21, Part 3.

2.15.090 Contracts For Goods And Services During An Emergency

In accordance with the provisions of the City procurement ordinances or policies, the City may acquire goods and services in response to the exigencies of the emergency or disaster as are necessary and the Mayor may suspend or waive compliance with time consuming ordinances, policies, procedures and formalities prescribed by law pertaining thereto, City purchasing ordinances regarding the acquisition of goods and services.

2.15.100 Criminal Penalties

Any person who knowingly refuses to comply with an order to evacuate issued under this Chapter or who refuses to comply with any other order issued during a state of emergency, as provided in this Chapter and after notice of the order has been given to that person, is guilty of a Class B Misdemeanor.

CHAPTER 2.16 --PERSONNEL

2.16.010 Purpose and Implementation. The Chapter has been adopted for the purpose of guiding the City's efforts for quality performance, equity in employment, and career development of its employees. This Chapter will be applied in conformance with all applicable federal and state laws and regulations, including but not limited to Title 10, Chapter 3, Part 11 of the Utah Code. This Chapter does not create any contractual rights for employees.

2.16.020 Definitions. The following definitions will apply for the purposes of this Chapter, and shall be in addition to those definitions in Section 1.02.060:

- A. "Contractor" or "Independent Contractor" means, consistent with Utah Code § 34A-2-103(2)(b)(i) or applicable successor statute, any person engaged in the performance of any work for the City who, while so engaged, is:
 - 1. Engaged only in the performance of a definite job or piece of work on behalf of the City;
 - 2. Independent of the City in all that pertains to the execution of their job or piece of work;
 - 3. Not subject to the routine rule or control of the City;
 - 4. Subordinate to the City only in effecting a result according to City's design.
- B. "Elected Official" means the Mayor or any member of the Council.
- C. "Employee(s)" or "Staff" means a person or persons employed for wages or salary by the City.
- D. "Ethics Act" means the Utah Public Officers' and Employees' Ethics Act, Utah Code §§ 67-16-1 *et seq.*, or applicable successor statute.
- E. "Family and Medical Leave" means unpaid, job-protected leave for specified family and medical reasons under the Family and Medical Leave Act of 1993, as amended, 29 USC § 2601 *et seq.*
- F. "FLSA" means the Fair Labor Standards Act, 19 U.S.C. 201 to 219.
- G. "Full-time Employee" means an employee hired to work more than 30 hours per week on a regular basis in an established job.
- H. "GAAP" means Generally Accepted Accounting Principles.
- I. "Mayor" means the Mayor of the City of Kearns.

- J. "Part-time Employee" means employment in an established job requiring not more than 30 hours per week.
- K. "Public Officer" means a member of the Council consistent with Utah Code § 76-1-601(13) or applicable successor statute.
- L. "Public Property" means, consistent with Utah Code § 76-8-101(5)(a) or applicable successor statute, real or personal property that is owned, held, or managed by the City, including real or personal property that is transferred by the City to an independent contractor which remains public property while in the possession of an independent contractor of the City for the purpose of providing a program or service for, or on behalf of the City.
- M. "Public Servant" means, consistent with Utah Code § 76-1-101.5 or applicable successor statute, the following, who become public servants upon their election, appointment, contracting, or other selection, regardless of whether the person has begun to officially occupy the position of a public servant:
 - 1. A public officer;
 - 2. An appointed official, employee, consultant, or independent contractor of the City; or
 - 3. A person hired or paid by the City to perform a government function.
- N. "Temporary Employee" means employment in a job established for a specific period of time or for the duration of a specific project or group of assignments. A temporary employee may work full-time or part-time with the understanding that the employment will be terminated at the conclusion of a specific time or at the completion of a specific project.

2.16.030 Discrimination Prohibited. One of the reasons for this Chapter is to insure that no employee or applicant for employment will be discriminated against in any personnel action by reason of race, color, religion, sex, national origin, political affiliation, age or disability and to safeguard their privacy, statutory rights, and constitutional rights as citizens.

2.16.040 Fair Employment Practices. It is the intent and purpose of the Council to assure equality and quality in all phases of the employment process. In so doing, the Council intends to comply with all applicable State and Federal requirements pertaining to fair employment practices.

2.16.050 Professionalism. All employees are expected to accept and adhere to high standards of personal and professional conduct. This not only involves sincere respect for the rights and feelings of others, but also demands that

employees refrain from behavior that might be harmful to themselves, their co-workers and/or the City, or negatively impact those persons and organizations served by the City or the perception of the City by the public at large. An employee whose performance, work habits, overall attitude or demeanor becomes unsatisfactory or who fails to perform assigned duties and responsibilities at prescribed levels may be subject to disciplinary action, including termination.

2.16.060 Council Review. The Council will periodically review this Chapter to ensure that it conforms to the requirements of state and federal law.

2.16.070 Hiring and Termination

- A. **Job Description.** Before an applicant may be hired or an existing employee may be promoted to a new or revised position, a job description must be prepared and the position must be evaluated, approved by the Council, and a salary or pay level determined in accordance with the applicant's skills and qualifications. A job description is a description of the general duties, responsibilities, skills, degrees required, and other qualifications necessary to adequately perform a particular job.
- B. **At-will.** Except as otherwise required by Utah Code § 10-3-1105 or another applicable provision of law, all City employees, both full-time and part-time, will be "at-will;" and will acknowledge in writing that: (1) the employee's employment status is either appointed or at-will, as the case may be; and (2) the employee has voluntarily waived the procedures required in Utah Code § 10-3-1106. The City will not take any action to promise or otherwise imply guaranteed employment to any employee on any other basis. All employees shall execute an at-will waiver in substantially the same form as the following:

**At-Will Employment Acknowledgement and
Waiver**

Pursuant to Utah Code Ann. § 10-3-1105(2)(e), I acknowledge that my employment with Kearns City ("City") is **at will**. I understand and agree that my employment is not for any definite term and may be terminated by the City or by me at any time, with or without cause, and with or without notice, subject only to applicable law. I acknowledge that no oral or written statement, policy, handbook, or representation by any supervisor, manager, or elected official alters my at-will employment status unless expressly approved by the City Council in a

written contract signed by authorized representatives.

I acknowledge that I have been informed that certain employees of a municipality may be entitled to pre-disciplinary or pre-termination procedures under **Utah Code Annotated § 10-3-1106**, including notice and an opportunity to respond prior to suspension or termination. I further acknowledge that under Utah Code Ann. § 10-3-1105(2)(e), an employee may voluntarily waive those statutory procedures.

By signing this acknowledgment, I **knowingly, voluntarily, and expressly waive** any right I may have to the disciplinary, pre-termination, pre-suspension, or other rights or procedures described in Utah Code Ann. § 10-3-1106, to the fullest extent permitted by § 10-3-1105(2)(e). I understand that as a result of this waiver, the City may discipline, suspend, or terminate my employment without providing those statutory procedures, and that my status will remain strictly at will.

I confirm that this waiver is voluntary, is not a condition of any existing contractual employment right, and is executed without coercion or improper pressure. I have been given the opportunity to ask questions and to seek independent advice and legal counsel before signing. I understand that this waiver does not limit any rights that cannot be waived under federal or state law, including claims for unlawful discrimination, retaliation, or other protected rights.

Employee Name: _____
Employee Signature: _____
Date: _____

Position/Department:

City
Representative: _____
Date: _____

Title: _____

- C. Job Advertising: All announcements and employment advertisements will comply with equal employment opportunity requirements. All such notices must specify the person for whom applications are to be obtained, the person to whom completed applications are to be returned, and the deadline for filing an application. Such notices should contain a statement indicating that the City is an equal opportunity employer. Generally, the City may post job announcements with the Department of Workforce Services and/or may be advertised in a newspaper published and/or distributed in Utah or on a related industry website or other job search website.
- D. Employment Agencies and Search Consultants. The City may use private employment agencies and search consultants if the Council has reason to believe that a qualified candidate will not be attracted as a result of the procedures of this Chapter, or if the Council has reason to believe that the engagement of such agencies or consultants will result in additional qualified candidates applying for the position.
- E. Hiring. All job applicants will complete such application forms and evaluations as required by the Council. In conducting any ability tests the Council may require, reasonable accommodations will be made for disabled applicants upon request.
- F. Interviews. The Council will select an interview pool from those applicants who have passed the preliminary job application form screening and any ability tests that have been administered. During the interview, each applicant will be asked only questions pertaining to the applicant's professional background, experience, training, education, and qualifications for the job. Applicants may not be asked about their marital or family status or pregnancy, religion, age, gender or sex, race, ethnicity or color, or disability. If references are contacted, to the extent practical, an equal number of references will be contacted for each applicant giving permission for the contact.
- G. Notification Procedures. Before a person is offered a position, the offer must be evaluated and approved by the Council and any applicable direct-line supervisor. The job offer must include the basic conditions of employment. If the offer is extended verbally, a follow-up written offer must be delivered to the applicant within a reasonable time after the verbal offer has been extended. The written offer must be signed by the applicant before the applicant may assume duties as a City employee. If the position in question qualifies as an "at-will" position, the written job offer must clearly state the job description, salary, conditions of employment, that the position is "at-will," and that the offer is not final until the candidate signs and returns the written offer letter. The offer letter should also include the job title; the name of the supervisor; if

applicable; a statement that the job title, job description, and identification of the supervisor may change over time; the starting date; disclosure of the probationary period during which the employee may be terminated for no cause and without explanation; and any contingencies or conditions to the job offer (such as passing a drug test). Once a written offer has been signed by the candidate, the offer is final. The original of the final offer is to be maintained by the City as part of its personnel files, with a copy to be given to the new employee.

- H. Notification of Closing. All recruiting sources used in the recruiting process should be notified of the closing of the job opening as soon as is reasonably practicable.
- I. Orientation. Each newly hired employee will complete necessary paperwork and receive orientation as a new employee of the City on the first day of work or as reasonably practicable thereafter.
- J. Immigration Reform and Control Act of 1986. In accordance with the Immigration Reform and Control Act of 1986, all new employees must provide proof of identity and employment status by completing an employment eligibility verification form as required by the U.S. Department of Justice Immigration and Naturalization Service. The newly hired employee must declare, under penalty of perjury, that he/she is a United States citizen, a lawful permanent resident alien, or an alien otherwise authorized for employment in the United States.
- K. Termination. This Chapter establishes standards and procedures for the termination of at-will employees of the City and is intended to promote fairness, consistency, documentation, and legal compliance while preserving the at-will nature of employment; it applies to all employees designated as at-will and does not apply to employees covered by an employment contract, or who may not be designated as at-will by statute. All covered employees are employed at-will, meaning employment may be terminated at any time by either the employee or the City, with or without notice and with or without cause, and nothing in this Chapter creates a contract or alters at-will status; although cause is not required, termination decisions may be based on factors including but not limited to unsatisfactory performance, misconduct, violations of this Chapter, insubordination, dishonesty, harassment, safety violations, misuse of public resources, failure to maintain required credentials, organizational restructuring, position elimination, or for reasons determined to be in the best interest of the City. Decisions to terminate an employee shall be made by the Council. In the event of termination, the City will provide written notice of termination stating the effective date, final pay, and return-of-property requirements, and other information relating to the termination. The omission of any such information may not render the termination invalid. At-will termination decisions are not subject to

internal grievance or appeal unless required by statute. No termination decision may be based on unlawful discrimination, retaliation, protected speech, lawful whistleblowing, protected leave, or any other protected classification or activity under applicable law. This Chapter may be modified at any time by the City and does not create any guarantee of continued employment or procedural rights beyond those required by law.

2.16.080 Disciplinary Action

- A. General. All disciplinary actions other than termination are intended to be corrective and constructive rather than punitive and should be carried out to obtain compliance with policies, orders, procedures, standards of conduct, and expected performance standards or to improve performance or conduct. Nothing in this Section requires progressive discipline before an at-will termination.
- B. Disciplinary Actions. There will six types of disciplinary actions that may be used by the City: (1) reprimand; (2) suspension; (3) suspension-without pay; (4) restitution for damage to the City property or to other property; (5) demotion; and (6) termination. All disciplinary decisions must be documented in writing and given to the employee, with the City retaining a copy for its records. Unless the Council designates otherwise, it must approve all disciplinary actions. No employee will be disciplined because of political affiliation, age, race, gender, color, disability, national origin, religious beliefs, or other protected class established by state or federal law. Notwithstanding these provisions, all City employees, both full-time and part-time, will be at-will employees and may be terminated at-will by the Council, at any time, without cause or prior notice, for any reason or for no reason at all.
- C. Appeals of Disciplinary Actions. Appeals of the disciplinary hearing decision other than an at-will termination decision, may be made to the Mayor for review by the Council within fifteen (15) working days after the employee received a copy of the disciplinary decision. The Council will review the appeal at its next regularly scheduled meeting, or at a special meeting if the next regularly scheduled meeting will take place thirty (30) calendar days after the date the appeal was received. By majority vote, the Council may reverse, uphold or modify the disciplinary decision. The Council's decision regarding the appeal will be in writing and given to the employee within thirty (30) working days from the date the appeal was filed with the Mayor.
- D. Limitations. Pursuant to Utah Code § 10-3-1106, an employee subject to Utah Code § 10-3-1105, may not be discharged, suspended without pay, or involuntarily transferred to a position with less remuneration because of

the employee's politics or religious belief; or incident to, or through changes, either in the elective officers, governing body, or head of City departments. Appeals made in response to alleged violations of this Section will be made in accordance with Utah Code § 10-3-1106.

2.16.090 Grievance Procedure

A. Complaints Involving Employees

1. Any employee alleging a grievance is encouraged to resolve the problem through an informal discussion with the City Administrator or the Council, if the City Administrator is the employee's immediate supervisor. If the results of such a discussion are not satisfactory, the employee will file a formal written grievance with the Mayor. A grievance must be filed in writing and clearly state the City policy, state law and/or federal law alleged to have been violated. Failure to include or identify a violation shall result in the waiver of that violation or ground on appeal. All grievances must be filed within thirty (30) calendar days following the alleged violation of any City policy, law, state law, or federal law.
2. After receiving a complaint, the Mayor will consult with the employee's immediate supervisor, the City Administrator, the City Attorney, and the City's human resources director, if available, to determine whether the complaint warrants investigation. If the Mayor determines that an investigation is warranted, the Mayor shall retain an independent investigator or direct the City Administrator, the City Attorney, or the City's human resources director, if available, to investigate the complaint. The Mayor may not authorize the subject of a complaint to investigate the complaint.
3. The person the Mayor authorizes to conduct the investigation shall investigate the complaint and issue a written report to the employee and the Council setting forth findings and recommendations for the resolution of the grievance at the conclusion of the investigation.
4. The employee may accept the recommendations of the City Administrator, Mayor, or third-party investigator as the case may be, or file a written appeal to the Council within five (5) working days of receiving the recommendation. After hearing the grievance appeal, the Council will provide the employee with a written decision. The Council's decision will be final.

B. Complaints Against the Council

1. Any employee or other person alleging a grievance against a member of the Council is encouraged to resolve the problem through an informal discussion with their immediate supervisor or an individual member of the Council.
2. If the results of such discussion are not satisfactory, the employee will file a formal written grievance with the City Administrator. A grievance must be filed in writing and clearly state the City policy, state law and/or federal law alleged to have been violated. Failure to include or identify a violation shall result in the waiver of that violation or ground on appeal. All grievances must be filed within thirty (30) calendar days following the alleged violation of any City policy, law, state law, or federal law.
3. If the City Administrator, after consulting with the City Attorney and human resources manager, determines that the complaint has merit, the City Administrator shall retain a qualified third-party investigator to investigate the complaint.
4. After investigating the complaint, the investigator shall issue a formal unredacted report with recommendations for action to the Councilmembers who are not the subject of the complaint and shall issue a separate report to the subject of the complaint that redacts any information needed to comply with applicable whistleblower laws and policies, including the names of witnesses.

C. Leaves of Absence During Investigations

1. Any employee or Council member who is the subject of an investigation shall be recused from all matters involving the complaint and investigation to the greatest extent allowed under the law, and may not direct, interfere with, or otherwise engage with the investigation in any way except as authorized in this Section.
2. Employees who are the subject of an investigation shall be placed on paid administrative leave and shall be barred from participating in any City activities until such time as the investigation has concluded and the City has issued a final decision regarding the investigation, unless the Council otherwise authorizes the employee to perform certain duties during the pendency of the investigation.
3. Council members who are the subject of an investigation shall be barred from having any contact with City employees, contractors, and other agents during the pendency of the investigation outside of Council meetings, except as the Council may authorize after consulting with the investigator.

D. Confidentiality

1. Complaints, investigations, and other related information created under this Section shall be considered confidential and shall only be shared with the public when required by law or as the Council may authorize.
2. Subjects of the complaint shall not be made aware of the complaint until after the City has determined that an investigation is warranted pursuant to this Section, and the City may only notify the subject of the complaint as directed and authorized by the person the City has authorized to perform the investigation pursuant to this Section.

2.16.100 Employee Evaluation. Personnel evaluation is closely related to employee development, promotion, and compensation. The Council may designate a Council member or supervising employee to hold regular goal-setting interviews with subordinates and regular follow-up meetings to motivate, train, and develop employees.

2.16.110. Employee Development and Training. When the Council, or a supervisor with the approval of the Council, requires that an employee attend a formal training program, the City will pay all reasonable and pre-authorized costs associated with the training. Employees may also ask the Council for approval to attend trainings related to their position. The Council may, in its sole discretion, provide assistance to an employee who undertakes a course of study which leads to a job-related degree. In some cases, irregular work schedules may be arranged as a means of accommodating class schedules.

2.16.120 Sexual Harassment

- A. **Sexual Harassment Prohibited.** The City is committed to provide all employees with a work environment free of sexual harassment and other forms of discrimination. Sexual harassment, in any form, is unacceptable. Any employee involved in sexual harassment will be subject to discipline, including termination.
- B. **Documentation.** If an employee believes that the employee is being subjected to any form of sexual harassment, or that the working environment contributes to sexual harassment, the employee should document specific information regarding the harassment, including: dates, times, places, specific types of harassment, and the names of any witnesses. The employee should then verbalize his/her disapproval of the actions to the harasser(s) and state that his or her actions are not welcome. Employees must immediately report any circumstance which the employee believes may result in physical harm to the City Administrator or Mayor.

- C. Grievance Procedure. If an employee feels that the employee is a victim of sexual harassment, the employee is encouraged to file a grievance in writing with the City Administrator or the Mayor, if the employee is unable or uncomfortable reporting to the City Administrator. The City Administrator or Mayor, if applicable, or their designee, will hear, entertain, and resolve allegations of sexual harassment in an expedient and discreet manner once such a grievance has been filed. Once a grievance has been filed, it will be the responsibility of the City Administrator, or Mayor, if applicable, to immediately investigate the grievance.

2.16.130 Substance Abuse

- A. Drug Free Workplace. The City prohibits drug and alcohol use or impairment in the workplace to protect the public and the City's employees. The Council may, in its discretion, test current employees and prospective employees for the presence of drugs or alcohol as a condition of hire or continued employment if it has a reasonable basis to require such testing. All testing shall conform to the requirements of Utah Code § 34-38-1 *et seq.* Any employee or prospective employee failing or refusing to take the test will not be eligible for employment, or if employed, may be subject to termination. The City will consider all confirmed positive drug and alcohol test results with a medically sufficient explanation to be the equivalent of a negative drug test result.
- B. City Action. Upon receipt of a verified or confirmed positive drug or alcohol test result, which indicates a violation of this Chapter, or upon the refusal of any employee or prospective employee to provide a sample, the Council may use that test result or refusal as the basis for all disciplinary or rehabilitative actions authorized herein, depending upon the circumstances.
- C. Confidentiality. All information, interviews, reports, statements, memoranda, or test results received by the City, through this drug and alcohol testing program, are confidential communications and are not to be used or received as evidence, obtained in discovery or disclosed in any public or private proceeding, except to those having a demonstrated need to know, or in a proceeding related to an action taken by the City, or in defense of any action brought against the City, or as required by law. All testing results will be the property of the City, but test results may be released to the person who has been tested upon written request.
- D. Acknowledgment. The City will require each employee to read this Chapter and sign a form stating that they have received and read a copy of this Chapter and agree to abide by its terms as a condition of continued employment. The signed acknowledgment will be kept in each

employee's personnel file.

2.16.140 Workers Compensation Insurance

- A. General. Work-related accidents are covered by the workers compensation insurance. Premiums for this coverage are paid by the City. Employees are to report any work-related accidents to the Council, or applicable supervisor designated by the Council, as soon as possible and submit a written initial injury report to the Council or supervisor as soon as possible.
- B. Payments. If a claim is approved by the Utah Labor Commission, the employee's medical costs and compensation will be paid by the worker's compensation insurance in accordance with the State policy. Because the City pays the total cost of worker's compensation insurance, an employee cannot draw sick leave pay while eligible for worker's compensation insurance payments.
- C. Accounting for Sick and Annual Leave. The period of time an injured employee is off work and is waiting to qualify for worker's compensation insurance payments, will be charged to sick leave or vacation leave as selected by the employee. However, during the period an employee is eligible and receiving compensation from worker's compensation insurance, no sick leave or annual leave will be paid by the City.

2.16.150 Job Classifications and Compensation

- A. Compensation. The Council will conduct periodic market surveys to determine the salary range for particular job classifications and the salary, within the approved range, for particular employees based on their experience, qualifications, education, and other qualifying factors the Council deems relevant.
 - B. Performance Reviews. The Council will designate a Council Member or a supervisor to conduct periodic performance reviews to ensure quality performance, provide feedback concerning employee performance, set work performance, and determine eligibility for merit raises. The Council may, in its discretion, require performance reviews more than once annually.
- Merit Increases. The Council may, in its discretion, award merit increases in an employee's compensation based on increased proficiency, qualifications, changes in an employee's position or job description, or other circumstances that it deems to warrant an increase. Merit increases are not automatic but are subject to the results of an evaluation of the employee's performance and the availability of sufficient budgeted funds.

- C. Cost of Living Increases. The Council may, in its discretion, award cost-of-living increases to its employees, provided that all employees must receive the same cost of living increase and any such increases must be computed by the consumer price index published by the United States Bureau of Labor Statistics.
- D. Pay Periods. Unless an exception is granted by the Department of Labor, as required by the FLSA, wages are to be calculated on a weekly basis and are to be paid at least twice monthly.
- E. Overtime. Any nonexempt employee who is required to work more than 40 hours during a workweek will be paid for all hours in excess of 40 at one and one-half times the employee's regular rate or, if permitted by the FLSA and elected by the Council, will receive compensatory time off at the rate of one and one-half hours for each hour for which overtime compensation would otherwise be required by the FLSA or other applicable law.
- F. Health Insurance and Retirement: The Council may elect, in its discretion, to provide health insurance and retirement benefits to its employees.
- G. Payroll Deductions for Political Purposes Prohibited. The City will not deduct from the wages of its employees any amounts paid to:
 - 1. A candidate as defined in Utah Code § 20A-11-101;
 - 2. A personal campaign committee as defined in Utah Code § 20A-11-101;
 - 3. A political action committee as defined in Utah Code § 20A-11-101;
 - 4. A political issues committee as defined in Utah Code § 20A-11-101;
 - 5. A registered political party as defined in Utah Code § 20A-11-101;
 - 6. A political fund as defined in Utah Code § 20A-11-1402; or
 - 7. Any entity established by a labor organization to solicit, collect, or distribute money primarily for political purposes as defined in Chapter 32 of Title 34 of the Utah Code.

2.16.160 Leave

- A. Annual Leave. The following schedule will be used to earn vacation leave for full-time employees:

Length of Service	Hours Earned
0 - 4 yrs	3.0 hours per pay period
4 plus - 9 yrs	5.0 hours per pay period
9 plus - 14 yrs	7.0 hours per pay period
14 plus yrs	9.0 hours per pay period

Part-time employees will receive 50% of these amounts.

- B. Use of Annual Leave. An employee may use any or all accrued annual leave at any time subject to the approval of the Mayor or the employee's supervisor, whichever is applicable. Vacations will be scheduled well in advance so as to meet the operating requirements of the City, and in so far as possible, the preference of the employees. It will be the responsibility of the Council, or a designated employee, to maintain records of vacation leave used by each employee. Such records will be turned into the Council at the end of each quarter, or immediately upon the employee's separation, to be placed in the employee's official personnel records.
- C. Sick Leave. Sick leave will accrue at the rate of 4.0 hours per pay period for full-time employees and 2.0 hours per pay period for part-time employees. Sick leave may be used as accrued. Sick leave may be used for the employee's personal illness or injury or for the illness or injury of an immediate family member, except that up to three days of the sick leave accrued annually may be used for personal business during the year of accrual. Personal leave must be identified as personal leave on the employee's time record, approved in advance, and taken in increments of one hour. Unused personal-business leave automatically reverts to ordinary sick leave on January 1. A supervisor may send home an employee who reports to work sick and is unable to perform the job safely, productively, and effectively, and may require the employee to use sick leave.
- D. Family and Medical Leave, Generally. Employees who have worked for the City for 1,250 hours during the previous 12 consecutive months and have been employed for at least 1 year are eligible for up to 12 work weeks of unpaid Family and Medical Leave during any 12-month period as determined by the City. The Mayor or designee, may approve, based on individual circumstances, leave for employees who do not meet the "hours" or "months" eligibility requirement. Eligible employees are entitled to Family and Medical Leave in the following situations:
1. The employee has a serious health condition that makes the employee unable to perform the employee's job.

2. The birth of an employee's child, or placement of a child for adoption or foster care.
3. Caring for the employee's spouse, son or daughter, or parent, who has a serious health condition.

E. Family and Medical Leave, Additional Provisions.

1. Eligible employees are entitled to take 12 work weeks of unpaid Family and Medical Leave for these reasons in any 12-month period, which 12-month period will be determined by the City. These benefits are renewable each year but cannot be accumulated from year to year.
 2. Before Family and Medical Leave is granted to an employee, the City will require medical certification to support a request for leave because of serious health condition, and may require second and third opinions (at the employer's expense). A fitness for duty report to return to work will be required of all employees returning from Family and Medical Leave. The employee ordinarily must provide thirty (30) days advance notice when the leave is "foreseeable."
 3. The maximum 12 work weeks of Family and Medical Leave may be taken continuously or intermittently, if granted by the Mayor. The City requires that any available paid leave (sick leave, comp time, vacation, personal leave or other paid leave) be used by the employee as part of the 12 work weeks as provided in the "Family and Medical Leave Act of 1993."
 4. Employees taking Family and Medical Leave will receive health benefits under the same terms and conditions as when they were on the job. Other benefit premiums, such as life insurance, long term disability insurance and short term disability insurance must be paid by the employee.
 5. Employees are guaranteed the right to return from Family and Medical Leave to their previous or an equivalent position with no loss of benefits at the end of the leave. If there are layoffs or reductions in force while the employee is on Family and Medical Leave, and they would have lost their job had they remained, the employee loses their rights to reinstatement.
- F. Leave of Absence. Leave of absence without pay or benefits up to 120 days may be granted by the Council. Leave of absence will not be regarded as an acquired right by an employee. Requests for a leave of absence will

be made in writing and addressed to the Council. After the Council has made a decision, it will respond to the employee in writing stating the reasons for said decision. Benefits will not accrue while on leave of absence.

- G. Paid Holidays. The following days have been designated by the City as paid holidays. Holidays observed by the City that fall within a scheduled vacation period will not be counted as vacation time but rather will be taken as a paid holiday.

New Year's Day
Martin Luther King Day
Presidents' Day
Memorial Day
Fourth of July (Independence Day)
Pioneer Day
Labor Day
Veterans' Day
Thanksgiving Day
Christmas Day

- H. Bereavement Leave. Pursuant to Utah Code § 10-3-1103, employees may take up to 3 workdays of paid bereavement leave.

2.16.170 Global Governance-Management Connection and Unity of Control.

Decisions or instructions of individual Council members, officers or committees are not binding on the City staff except when the Council has specifically authorized such exercise of authority by individuals or committees.

2.16.180 Council Oversight. The Council manages the operation of the City. All authority over and accountability of employees and contractors **shall** be the responsibility of the Council.

2.16.190 Treatment of Constituents and Others

- A. General. With respect to interactions with constituents, members of the public, and others, Council members, employees, and contractors may not cause or allow conditions, procedures, actions or decisions which are unlawful, unethical, unsafe, disrespectful, disruptive, undignified, imprudent, or in violation of Council policy. Accordingly, Council members, employees, and contractors will not:

1. Fail to develop and maintain positive relationships with constituents, public agencies and officials, contractors, service providers, insurers, consultants and others to effect the exchange of information, resources, programs and ideas to ensure the best interests of the public.

2. Fail to recommend policies and procedures to the Council that ensure compliance with all federal and state regulations and local laws.
3. Fail to provide for effective handling of complaints; including but not limited to prohibiting or making it difficult for a constituent to present a complaint to the Council if resolution has not been reached at the employee level.
4. Fail to disclose the opportunity to leverage relationships with other entities that share interests with the City.
5. Use methods of collecting, reviewing, transmitting or storing information that fail to protect confidential information.

B. Financial Management: With respect to the actual, ongoing condition of the City's financial health, Council members and employees may not cause or allow a material deviation from the policies adopted by the Council, cause or allow any fiscal condition that is inconsistent with achieving the Council's directives, fail to exercise due and prudent care, or place the long term financial health of the organization in jeopardy. Accordingly, Council members and employees may not:

1. Expend more funds than are conservatively projected to be received in the fiscal year, unless revenues are made available from unrestricted net assets, or other reserves in excess of minimum fund balances, as approved by the Council.
2. Indebt the City or create obligations beyond the City's anticipated revenues.
3. Fail to meet obligations in a timely manner.
4. Fail to continually review expenditures and effectiveness of budgetary controls of the City and present to the Council quarterly financial reports.
5. Allow reports or filings required by any local, state or federal agency to be overdue or inaccurately filed.
6. Expend any funds without disclosing to the Council any conflict of interest or fail to annually provide a conflict of interest report to the Council.
7. Fail to aggressively pursue receivables after a reasonable grace period.

8. Fail to keep complete and accurate financial records on a modified accrual basis by fund type and accounts in accordance with GAAP.
9. Receive, process or disburse funds under controls that are inconsistent with GAAP.
10. Violate the City's purchasing policy. Splitting orders to avoid this limit is not acceptable.
11. Change fee structures without properly executed public notice, public hearings and Council approval.
12. Use any long term reserves without the express consent of the Council.
13. Develop or administer any program that leverages the benefit of any individual Council or employee.
14. Fail to make an annual presentation to the Council of the City's goals, budget and activities.

C. Asset Protection. The Council, employees and contractors may not allow City assets to be unprotected, inadequately maintained, inappropriately used or unnecessarily risked. Accordingly, City Council, employees, and contractors (when applicable) may not:

1. Fail to insure adequately against theft and casualty and maintain adequate liability protection for Council members, employees, and the City itself.
2. Unnecessarily expose the City, the Council, employees, or contractors to claims of liability.
3. Fail to obtain insurance coverage against theft and property losses to 100 percent of replacement value.
4. Allow personnel access to material amounts of funds or fail to manage each major fund of the City, and closely supervise those having the care, management, collection, or distribution of public monies belonging to the City.
5. Subject facilities and equipment to improper wear and tear or insufficient maintenance.
6. For Council members and employees, make any purchases without strict compliance with the City's purchasing policies and procedures.

7. Receive, process or disburse funds under controls which are insufficient to meet the compliance standards of the City's Independent Auditor.
8. Invest or hold funds in instruments that are non-compliant with the State Money Management Act.
9. Fail to protect public records, City information and files from loss or significant damage.
10. Acquire, encumber or dispose of real property without a recommendation from the Council.
11. Fail to maintain a minimum general fund balance of 50% of the current year's property tax collections, unless authorized by the Council; nor allow the general fund balance to exceed 100% of the current year's property tax collections.
12. Fail to manage City assets in compliance with GASB Statement No. 34, and the asset capitalization policy adopted by the Council.
13. Endanger the organization's public image or credibility, particularly in ways that would hinder its purpose, mission and values.

D. Communication and Support to the Council: City staff shall give the Council as much information as necessary to allow the Council to be adequately informed and supported in their work. Accordingly, City staff and contractors shall:

1. Submit monitoring data required by the Council in a timely, accurate and understandable fashion, directly addressing provisions of the Council policies being monitored and including the staffs' or contractors' interpretations.
2. Advise the Council in a timely manner of trends, facts and information relevant to the Council's work.
3. Advise the Council of significant transfers of money within funds or other changes substantially affecting the organization's financial condition.
4. Advise the Council of changes in assumptions upon which Council policy has been established.
5. Provide for the Council as many staff and external points of view and opinions as needed for fully informed Council decisions.

6. Advise the Council if, the Council or individual members are not in compliance with the Council's policies, particularly in the case of Council or Council member behavior that is detrimental to the work relationship between the Council and the Mayor.
7. Provide a mechanism for official Council, officer or committee communication.
8. Work with the Council as a whole except when:
 - i. Fulfilling reasonable individual requests for information;
 - ii. Working with officers or committees duly charged by the Council; and
 - iii. Communicating with the Mayor.
9. Report in a timely manner any actual or anticipated noncompliance with any Council or other policy.
10. Supply sufficient information about items on the agenda to enable Mayors of the Council to make informed decisions.
11. Provide to Council members a draft copy of Council meeting minutes within twenty (20) working days after each meeting.
12. Provide electronic notice to Council members, including a proposed agenda and related information at least five days prior to a scheduled Council meeting.
13. Supply for the consent agenda all items delegated to the Mayor, yet required by law or contract to be Council-approved, along with monitoring assurance.

2.16.200 Acceptable Use

- A. General. This Section constitutes a "written policy of the public servant's entity" for the purposes of Utah Code § 76-8-402(1)(a)(iii).
- B. Authorization. City public servants are authorized to use public property for personal use as provided in this Section.
- C. Guidelines. City public servants are encouraged to use City public property of in a manner that complies with the following:
 1. The use does not damage the public property;

2. The use does not cost the City more than \$2,500.00;
 3. The use does not interfere with use of the public property as intended for the public use; and
 4. The use allows public servants who have been authorized, formally or informally, to use City equipment for personal use to do so in accordance with state laws.
- D. Warnings. If the Council, a Council member, or a City supervisor believes that a public servant is using public property in a manner contrary to the guidelines set forth in Subsection 3, the Council, Council members, or supervisor shall give the public servant a written statement that describes the public servant's improper use of City public property and informs the public servant that he or she should immediately stop using the public property in a manner that is contrary to the guidelines.
- E. Repeat Violations: A public servant shall violate this Section if he or she:
1. Receives a warning under Subsection 4 that is not appealed or is upheld by the Council; and
 2. Uses public property in the same or in a substantially similar manner as set forth in the previously issued warning within a year of that warning.
- F. Demand for Payment. If a public servant violates this Section, the City shall demand in writing that the applicable public servant repay the full cost of his or use personal use of public property. Any written demand that the City issues under this Section must include the total amount owing, an explanation of how the City calculated the amount owing, and a deadline for the public servant to repay the amount owing. The public servant's use of the public property shall be deemed to be unauthorized if the public servant does not repay the amount owing within the time allotted in the written demand. Provided, however, that a public servant may respond to a written demand by requesting a re-payment schedule, which request the Council, in its sole discretion may approve or deny. If the Council establishes a re-payment schedule, failure of the public servant to comply with that re-payment schedule shall constitute the unauthorized use of City's public property.
- G. Appeals. A public servant may appeal a warning or demand for payment issued under this Section to the Council if the public servant believes the warning or demand for payment is in error or is otherwise improper under this Section or applicable law. The public servant must file a written appeal with the Council within 10 days of the public servant's receipt of the

warning or demand for payment. The Council shall hear the appeal at its next regularly scheduled meeting or, in its discretion, hold a special meeting to hear the appeal. When hearing an appeal filed under this Section, the Council shall review the warning or demand for payment de novo along with any information or evidence provided by the public servant. The public servant shall bear the burden of proof of showing by a preponderance of the evidence that the warning or demand for payment is in error. The Council shall issue a written decision explaining the reasoning for its decision and shall provide the public servant with a copy of its decision, provided that any decision issued under this Section must include the following disclaimer: "This decision pertains to an internal City employment matter and does not constitute evidence of any criminal wrongdoing."

H. Disciplinary Action: A public servant who violates this Section shall be subject to all applicable disciplinary actions set forth in this Chapter and may be subject to civil and criminal penalties under Utah and federal law, depending on the circumstances, provided:

1. If an independent contractor violates this Section, such violation shall constitute grounds for the City to rescind or void a contract entered into with that independent contractor;
2. A Council member who violates this Section may be subject to civil and criminal penalties, including but not limited to disqualification from office pursuant to Utah Code § 76-8-404; and
3. The Council may, in its discretion, refer violations under this Section to the appropriate law enforcement authorities if the Council has reason to believe that a public servant has committed a crime.

2.16.210 Higher Law to Control and Severability. If there is any conflict between this Chapter and any applicable federal or state law, rule, or regulation, the law, rule, or regulation, including amendments and modifications thereto, shall control to the extent of the inconsistency. The provisions of this Chapter are severable. If any provision of this Chapter is held invalid or unconstitutional, or if its application to any person or circumstance is held invalid or unconstitutional, that holding may not affect the validity of the remaining provisions of the ordinance codified in this Chapter.

EXHIBIT C

Title 3 (Revenue and Finance)

TITLE 3 -- REVENUE AND FINANCE

CHAPTER 3.01 -- BUDGET, ACCOUNTING, AND FINANCIAL REPORTING

3.01.010: Key Fiscal Management Practices

- A. Adoption: The Council adopts these key fiscal management practices to govern City budgeting, accounting, and financial reporting, applicable state law, federal law, and other policies, rules, and regulations as adopted by the Council.
- B. Annual Budget: A copy of the key fiscal management practices is included in the City's annual budget document.

CHAPTER 3.02 -- PURCHASING SYSTEM

3.02.010 Definitions

- A. "Business" means any corporation, partnership, individual, sole proprietorship, joint stock company, joint venture, or any other private legal entity.
- B. "Change order" means a written order signed by the Purchasing Agent, directing the contractor to suspend work or make changes, which the appropriate clauses of the contract authorize the Purchasing Agent to issue a change order without the consent of the contractor or to make any written alteration in specifications, delivery point, rate of delivery, period of performance, price, quantity, or other provisions of any contract accomplished by mutual action of the parties to the contract.
- C. "Construction Purchase" means the acquisition of goods, services, and resources for a construction project.
- D. "Contract" means any City agreement for the procurement or disposal of supplies, services, or construction.
- E. "Invitation for bids" means all documents, whether attached or incorporated by reference, used for soliciting bids.
- F. "Procurement" means buying, purchasing, renting, leasing, leasing with an option to purchase, or otherwise acquiring any supplies, construction, or other services.
- G. "Procurement Item" means any supplies, construction, or other services that the City may acquire pursuant to this Chapter.

- H. “Purchasing Agent” means the City Administrator or other person duly authorized by the Council to enter into and administer contracts and make written determinations with respect thereto.
- I. “Purchase description” means the words used in a solicitation to describe the supplies, services or construction to be purchased, and includes specifications attached to or made a part of the solicitation.
- J. “Request for qualifications” means all documents, whether attached or incorporated by reference, use for soliciting specific professional services.
- K. “Request for proposals” means all documents, whether attached or incorporated by reference, used for soliciting proposals.
- L. “Sole Source Procurement” means a procurement without competition pursuant to a determination by the Purchasing Agent under Section 3.16.030.A.5 that there is only one source for the procurement item.

3.02.020 Procurement

All procurement on behalf of the City shall be conducted in accordance with Chapter 3.16 and 3.17.

CHAPTER -- 3.03 SALES TAX

3.03.010 Levy

- A. The City levies and collects a retail tax paid on every retail sale of items as provided in Utah Code § 59-12-103, made within the City at the rate of 1 percent (commencing retroactive to one minute after twelve o’clock (12:01) A.M., July 1, 2026.
- B. The City levies and collects an excise tax paid on the storage, use, or other consumption within the City of tangible personal property or any items as provided in Utah Code § 59-12-103 and, at the rate of 1 percent (commencing retroactive to one minute after twelve o’clock (12:01) A.M., July 1, 2026.

3.03.020 Adoption of State Code

- A. Utah Code § 59-12-101 et seq. is adopted and made part of this chapter.
- B. If the state is named or referred to as the “taxing entity” pursuant to Utah Code § 59-12-101 et seq., the name of the City shall be substituted therefor.
- C. Any amendments to Utah Code § 59-12-101 et seq., applicable to the City are incorporated herein by reference and shall be effective upon the effective date of the state statute.

3.03.030 State Tax Commission Services Agreement

The City has an agreement with the state tax commission to perform all functions related to the administration or operation of the sales and use tax ordinance of the City which may be supplemented to administer and collect the local sales and use tax as provided state law.

3.03.04 Exemption From Tax

In compliance with Utah Code § 59-12-204, the City may not impose a tax on the sales and uses exempted pursuant to Utah Code § 59-12-104.

3.03.050 Tax Paid Not Part Of Purchase Price

The amount of any tax paid pursuant to Utah Code § 59-12-101 et seq., may not be included as a part of the purchase price paid or charged for a taxable item.

3.03.060 Effective Date Of Tax; Continuation Of Previous Ordinances

The sales and use tax imposed pursuant to this chapter shall be retroactive to one minute after twelve o'clock (12:01) A.M., July 1, 2026. The provisions of the predecessor sales and use tax ordinances of the City, which are hereby repealed, shall be deemed to have continued effective until twelve o'clock (12:00) midnight, December 31, 2025. The provisions of this chapter which are not in conflict with the former ordinance shall be considered in effect and any rights, duties, or obligations arising thereunder shall not be abrogated or terminated.

CHAPTER -- 3.04 ENERGY SALES AND USE TAX

3.04.010 Purpose

To provide both a stable revenue source and create a more competitive environment for the energy industry, the City repeals its utility franchise tax levied on gas and electricity and adopts a municipal energy sales and use tax pursuant to Utah Code, Title 10, Chapter 1, Part 3, the Municipal Energy Sales and Use Tax Act.

3. 04.020 Definitions

A. As used in this chapter:

1. “Commission” means the state tax commission.
2. “Consumer” means a person who acquires taxable energy for any use that is subject to the energy sales use tax.
3. “Contractual Franchise Fee” means:

- a. A fee:
 - i. Provided for in a franchise agreement; and
 - ii. That is consideration for the franchise agreement; or
 - b.
 - i. A fee similar to subsection A of this definition; or
 - ii. Any combination of subsections A and B of this definition.
- 4. “Delivered Value” means the fair market value of the taxable energy delivered for sale or use in the City and includes:
 - a. The value of the energy itself; and
 - b. Any transportation, freight, customer demand charges, service charges, or other costs typically incurred in providing taxable energy in usable form to each class of customer in the City.
 - c. “Delivered Value” does not include the amount of a tax paid under:
 - i. Utah Code, Title 59, Title 12, Part 1, Sales and Use Tax Act, Tax Collection; or
 - ii. Utah Code , Title 59, Chapter 12, Part 2, Local Sales and Use TaxAct.
- 5. “De Minimis Amount” means an amount of taxable energy that does not exceed the greater of:
 - a. Five percent (5%) of the energy of supplier’s estimated total Utah gross receipts from sales of property or services; or
 - b. Ten thousand dollars (\$10,000.00).
- 6. “Energy Supplier” means a person supplying taxable energy, except that the state tax commission may by rule exclude from this definition a person supplying a de minimis amount of taxable energy.
- 7. “Franchise Agreement” means a franchise or an ordinance, contract, or agreement granting a franchise.
- 8. “Franchise Tax” means

- a. A franchise tax;
 - b. A tax similar to a franchise tax; or
 - c. Any combination of subsections A and B of this definition.
9. “Person” means the definition as provided in Utah Code § 59-12-102.
10. “Taxable Energy” means gas and electricity.

3.04.030 Municipal Energy Sales And Use Tax

The City imposes a municipal energy sales and use tax on the sale or use of taxable energy made within the City equaling six percent (6%) of the delivered value of the taxable energy to the consumer. This tax shall be known as the Municipal Energy Sales and Use Tax.

- A. The tax shall be calculated on the delivered value of the taxable energy to the consumer.
- B. The tax shall be in addition to any sales or use tax on taxable energy imposed by the City or by the state.

3.04.040 Exemptions From Energy Sales And Use Tax

- A. In compliance with Utah Code § 10-1-305, the City exempts the following from the Municipal Energy Sales and Use Tax:
 - 1. The sales and use of aviation fuel, motor fuel, or special fuel subject to taxation under Utah Code, Title 59, Chapter 13, Motor and Special Fuel Tax Act;
 - 2. The sales and use of taxable energy that the City is prohibited from taxing under federal law or the Constitution of the United States or the Utah Constitution;
 - 3. The sales and use of taxable energy purchased or stored in the state for resale;
 - 4. The sales or use of taxable energy to a person if the primary use is for use in compounding or producing taxable energy or a fuel subject to taxation under Utah Code, Title 59, Chapter 13, Motor and Special Fuel Tax Act;
 - 5. Taxable energy brought into the state by a nonresident for the nonresident’s own personal use or enjoyment while within the State, except taxable

- energy purchased for use in the state by a nonresident living or working in the state at the time of purchase;
6. The sales or use of taxable energy for any purpose other than use as a fuel or energy; and
 7. The sale of taxable energy for use outside the corporate limits of the City.
- B. The sale, storage, use, or other consumption of taxable energy is exempt from the Municipal Energy Sales and Use Tax levied by this chapter, provided:
1. The delivered value of the taxable energy has been subject to a Municipal Energy Sales or Use Tax levied by another municipality in this state; and
 2. The City has paid the difference between the tax paid to the other municipality and the tax that would otherwise be due under this chapter, if the tax due under this chapter exceeds the tax paid to the other municipality.
- C. No exemptions shall be granted from the Municipal Energy Sales and Use Tax imposed by this chapter except those specifically provided herein.
- D. On or before the effective date of this chapter, the City shall contract with the state tax commission to perform all functions incident to the administration and collection of the energy sales and use tax, in accordance with this chapter.

3.04.050: Existing Franchise Agreements Not Affected; Credit For Franchise Fees

- A. This chapter shall not alter any existing franchise agreements between the City and energy suppliers.
- B. An energy supplier which has entered a franchise agreement with the City shall receive credit for a contractual franchise fee paid if:
1. The energy supplier pays the contractual franchise fee to the City pursuant to a franchise agreement which is in effect on October 1, 2024;
 2. The contractual franchise fee is passed through by the energy supplier to a consumer as a separately itemized charge; and
 3. The energy supplier has accepted the franchise.
- C. The City may enter into such supplementary agreements with the state tax commission as may be necessary and proper for the continued administration and operation of the energy sales and use tax ordinance enacted by this chapter.

- D. An energy supplier shall pay the energy sales and use tax revenue collected from consumers directly to the City if:
1. The City is the energy supplier; or
 2. The energy supplier estimates that the municipal energy sales and use tax collected annually from its Utah customers equals one million dollars (\$1,000,000.00) or more; and
 - a. The energy supplier collects the energy sales and use tax.

3.04.060 Incorporation Of State Code Tax Collection Provisions

- A. The state tax commission shall collect, enforce and administer the municipal energy sales and use tax from energy suppliers in compliance with Utah Code, Title 59, Chapter 12, Part 1, Tax Collection, adopted and incorporated by reference as a part of this chapter. This adoption and incorporation by reference shall include any amendments to those provisions that relate to the levying or collecting of a municipal energy sales and use tax.
- B. The name of the City shall be substituted for all references to the “taxing agency” in Utah Code, Title 59, Chapter 12, Part 1.

3.04.070 Additional License For Collection Of Tax Not Required

If the energy supplier collecting the tax has a license issued pursuant to Utah Code § 59-12-106, an additional license to collect the energy sales and use tax levied by this chapter is not required.

CHAPTER -- 3.05 MUNICIPAL TRANSIENT ROOM TAX

3.05.010 Authority

The City adopts the Municipality Transient Room Tax as provided in Utah Code § 59-12-352 *et seq.*

3.05.020 Imposition Of Tax

The tax imposed by this chapter shall be one percent (1%) on charges for tourist homes, hotels, motels pursuant to Utah Code § 59-12-353, or trailer court accommodations and services that are regularly rented for less than thirty (30) consecutive days.

3.05.030 State Tax Commission

The Utah state tax commission shall collect the tax imposed under this chapter in compliance with Utah Code §§ 59-12-354 and 10-3-103

CHAPTER -- 3.06 TELECOMMUNICATIONS SERVICE PROVIDERS TAX

3.06.010 Definitions

A. As used in this Chapter:

1. “Commission” means the state tax commission.
2. “Customer” means
 - a. Subject to subsections (2)(b) and (c), of this definition, “customer” means the person who is obligated under a contract with a telecommunications provider to pay for telecommunications service received under the contract.
 - b. For purposes of this chapter, “customer” means
 - i. The person who is obligated under a contract with a telecommunications provider to pay for telecommunications service received under the contract; or
 - ii. If the end user is not the person described in subsection (2)(b)(i) of this definition, the end user of telecommunications service.
3. “Customer” does not include a reseller:
 - a. Of telecommunications service; or
 - b. For mobile telecommunications service, of a serving carrier under an agreement to serve the customer outside the telecommunications provider’s licensed service area.
4. “End User” means:
 - a. The person who uses a telecommunications service.
 - b. For purposes of telecommunications service provided to a person who is not an individual, “end user” means the individual who uses the telecommunications service on behalf of the person who is provided the telecommunications service.

5. “Gross Receipts from Telecommunications Service” means the revenue that a telecommunications provider receives for telecommunications service rendered, except for amounts collected or paid as:
 - a. A tax, fee or charge:
 - i. Imposed by a governmental entity;
 - ii. Separately identified as a tax, fee or charge in the transaction with the customer for the telecommunications service; and
 - iii. Imposed only on a telecommunications provider;
 - b. Sales and use taxes collected by the telecommunications provider from a customer under Utah Code, Title 59, Chapter 12, Sales and Use Tax Act; or
 - c. Interest, a fee or a charge that is charged by a telecommunications provider on a customer for failure to pay for telecommunications service when payment is due.
 - d. “Gross receipts for telecommunications service” includes a charge necessary to complete a sale of a telecommunications service.
6. “Mobile Telecommunications Service” means as the definition in the Mobile Telecommunications Sourcing Act, 4.U.S.C. Sec. 124.
7. “Place of Primary Use” means
 - a. For telecommunications service other than mobile telecommunications service, the street address representative of where the customer’s use of the telecommunications service primarily occurs, which shall be:
 - i. The residential street address of the customer; or
 - ii. The primary business street address of the customer; or
 - b. For mobile telecommunications service, the definition in the Mobile Telecommunications Sourcing Act, 4.U.S.C. Sec. 124..
8. “Srvice Address” means, notwithstanding where a call is billed or paid,
 - a. If the location described in subsection 8.a. of this definition is known, the location of the telecommunications equipment:
 - i. To which a call is charged; and

- ii. From which the call originates or terminates;
 - b. If the location described in subsection 8.a. of this definition is not known but the location described in subsection 8.b. of this definition is known, the location of the origination point of the signal of the telecommunications service first identified by:
 - i. The telecommunications system of the telecommunications provider; or
 - ii. If the system used to transport the signal is not a system of the telecommunications provider, information received by the telecommunications provider from its service provider; or
 - c. If the locations described in subsections 8.a. or b. of this definition are not known, the location of a customer's place of primary use.
9. "Telecommunications Provider" means
- a. Subject to subsections 9.b. and c. of this definition, "telecommunications provider" means a person that:
 - i. Owns, controls, operates, or manages a telecommunications service; or
 - ii. Engages in an activity described in subsection 9. a. of this definition for the shared use with or resale to any person of the telecommunications service.
 - b. A person described in subsection 9.a. of this definition is a telecommunications provider whether or not the public service commission of Utah regulates:
 - i. That person; or
 - ii. The telecommunications service that the person owns, controls, operates or manages.
 - c. "Telecommunications provider" does not include an aggregator as defined in Utah Code § 54-8b-2.
10. "Telecommunications Service" means:
- a. Telecommunications service, as defined in Utah Code § 59-12-102, means the electronic conveyance, routing, or transmission of audio, data, video, voice, or any other information or signal to a point, or

- among or between two points, other than mobile telecommunications service that originates and terminates within the boundaries of this state; and
- b. Mobile telecommunications service, as defined in Utah Code § 59-12-102:
 - i. That originates and terminates within the boundaries of one state; and
 - ii.
 - iii. Only to the extent permitted by the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 116 et seq.; or
 - c. An ancillary service as defined in Utah Code § 59-12-102.
 - d. Except as provided in 11.b., “telecommunications tax or fee” means any of the following imposed by the City on a telecommunications provider:
 - i. a tax;
 - ii. a license;
 - iii. a fee;
 - iv. a license fee;
 - v. a license tax;
 - vi. a franchise fee; or
 - vii. a charge similar to a tax, license, or fee as described in subsections 11.a.i. through vi.
 - e. “Telecommunications tax or fee” does not include:
 - i. the municipal telecommunication’s license tax authorized by this part; or
 - ii. a tax, fee, or charge, including a tax imposed under Utah Code, Title 59, Revenue and Taxation, that is imposed:
 - A. on telecommunications providers; and
 - B. in persons who are not telecommunications providers.

3.06.020 Levy Of Tax

The City levies a municipal telecommunications license tax on the gross receipts from telecommunications service attributed to this City.

3.06.030 Rate

The tax levy rate is three and one-half percent (3.5%) of the telecommunication provider's gross receipts from telecommunications service that are attributed to the City, subject to applicable state law.

3.06.040 Rate Limitation And Exemption

The tax levy rate may not exceed three and one-half percent (3.5%) of the telecommunication provider's gross receipts from telecommunication service attributed to the City unless a higher rate is approved by a majority vote of the voters in Kearns that vote in:

- A. A municipal general election;
- B. A regular general election; or
- C. A local special election.

3.06.050 Effective Date Of Tax Levy

This tax levy begins the earlier of October 1, 2026, or the first day of any calendar quarter after a seventy-five (75) day period beginning on the date the commission received notice pursuant to Utah Code§ 10-1-403 that the City has enacted this ordinance.

3.06.060 Changes In Rate Or Repeal Of Tax

The City shall comply with Utah Code § 10-1-403, including the posting of the appropriate notice if the tax rate is changed or the tax is repealed..

3.06.070 Interlocal Agreement For Collection Of Tax

On or before the effective date of this ordinance, Kearns shall enter into an uniform interlocal agreement with the commission pursuant to Utah Code § 10-1-405 for the collection, enforcement, and administration of the City's municipal telecommunications license tax.

3.06.080 Repeal Of Inconsistent Taxes And Fees

- A. The City repeals any tax or fee enacted under authority of Utah Code § 10-1-203 or Utah Code, Title 11, Chapter 26, Limitations on Local Taxes and Fees

- B. Nothing in this ordinance shall be interpreted to repeal any municipal ordinance or fee which provides that the City may recover from a telecommunications provider the management costs of the City caused by the activities of the telecommunications provider in the rights of way of the City, if the fee is imposed pursuant to Utah Code § 72-7-102, is not related to the City's loss of use of a highway as a result of the activities of the telecommunications provider in a right-of-way or increased deterioration of a highway as a result of the activities of the telecommunications provider in a right-of-way. This chapter does not limit the City's right to charge fees or taxes on persons that are not subject to the municipal telecommunications license tax under this Chapter and Utah Code § 72-7-108, in the City.

3.06.090: Limitation On Causes Of Action For Taxes Erroneously Collected

A customer may not bring a cause of action against a telecommunications provider on the basis that the telecommunications provider erroneously recovered from the customer municipal telecommunications license taxes authorized by this chapter unless the customer meets the following requirements:

- A. Customer shall provide the telecommunications provider written notice if:
1. The customer requests a refund or credit of any amount the customer overpaid in taxes and the telecommunications provider collected under this chapter; and
 2. The request contains the information necessary for the telecommunications provider to determine the validity of the request; and
- B. Sixty (60) days have elapsed from the day on which the telecommunications provider received the written notice from the customer.

CHAPTER 3.16 -- PROCUREMENT OF SUPPLIES, MATERIALS, EQUIPMENT, AND CONTRACTUAL SERVICES; DISPOSAL OF PUBLIC PROPERTY

3.16.010 General Provisions

- A. The underlying purposes of this Chapter are to:
1. Ensure the fair and equitable treatment of all persons who wish to or do conduct business within the City.
 2. Provide for the greatest possible economy in City procurement activities.
 3. Foster effective broad-based competition within the free enterprise system to ensure that the City shall receive the best possible service or product at the lowest possible price.

- B. This Chapter shall not prevent the City from complying with the terms and conditions of any grant, gift, or bequest that is otherwise consistent with law.
- C. When procurement involves the expenditure of federal assistance funds, the City shall comply with applicable federal law and regulations.

3.16.020 Purchasing Agent

- A. The City Administrator shall act as the City's Purchasing Agent. If the Council has not appointed a City Administrator, the Mayor shall act as the City's Purchasing Agent. The Council may by resolution appoint someone other than the City Administrator or the Mayor to act as the City's Purchasing Agent.
- B. The Purchasing Agent shall solicit bids, proposals, or qualified applicants to proposals, enter into and administer contracts, and make written purchasing determinations for the City in accordance with this Chapter and in accordance with applicable law.

3.16.030 Source Selection and Contract Formation – General Provisions

- A. The following shall not require sealed bids:
 - 1. Small Purchases: Small purchases costing \$50,000 or less in total shall not require bids of any type. (Purchases shall not be artificially divided to constitute a small purchase under this section.)
 - 2. Non-Construction Purchases Requiring Telephone Bids: Purchases for non-construction projects costing between \$50,001 and \$100,000 in total, shall require three (3) telephone bids.
 - 3. Construction Purchases Requiring Telephone Bids: Purchases for construction projects costing between \$50,001 and \$250,000 in total, shall require three (3) telephone bids.
 - 4. State Contracts: Purchases made through the cooperative purchasing contracts administered by the State Division of Purchasing or other governmental entity which has applied its purchasing and procurement policies. However, purchases over \$50,000 shall require formal City Council action and approval.
 - 5. Sole Source Procurement: Purchases made from a sole-source provider if the Purchasing Agent determines in writing that a sole source procurement is needed for one or more of the following reasons. The Purchasing Agent shall also ensure that the terms of the contract, including price and delivery, are in the best interests of the City.

- a. There is only one source for the procurement item;
 - b. The transitional costs are a significant consideration in selecting the procurement item and the results of a cost-benefit analysis demonstrate that transitional costs are unreasonable or cost-prohibitive, and that the award of a contract without engaging in a standard procurement process is in the best interest of the City; or
 - c. The award of a contract is under circumstances that make awarding the contract through a standard procurement process impractical and not in the best interest of the City.
6. Emergency Purchases. Purchases required during an emergency, i.e., an imminent threat to the public's health, welfare, or safety. However, as much competition as practical should be obtained; and, such purchases should be limited to amounts necessary to the resolution of the emergency. The Purchasing Agent shall also document in writing the nature of the emergency that required the emergency purchases and the actions taken to procure the procurement item. The Purchasing Agent shall notify the Council as soon as reasonably possible of the need for, amount of, and nature of any emergency purchase made pursuant to this subsection.
7. Publication. If the City does not use competitive sealed bidding for a procurement that exceeds the highest amounts in Section 3.16.030.A.2 (\$100,000) and Section 3.16.030.A.3 (\$250,000), it shall provide notice of procurements pursuant to Utah Code § 63G-6a-802, excepting small purchases.

3.16.040 Purchases Requiring Sealed Bids

- A. General. The City shall award all contracts for a procurement item with an estimated value in excess of the highest amounts Section 3.16.030.A.2 (\$100,000) and Section 3.16.030.A.3 (\$250,000) by competitive sealed bidding except as otherwise provided by this Chapter.
- B. Invitation. An invitation for bids shall be issued when a contract is to be awarded by competitive sealed bidding. The invitation shall include:
- 1. A description of the procurement item that the City seeks;
 - 2. Instructions for submitting a bid, including the deadline for submitting a bid;
 - 3. The objective criteria that the City will use to evaluate bids;
 - 4. Information about the time and manner of opening bids; and

5. Terms and conditions that the City intends to include in a contract resulting from the bidding process.
- C. Publication. The Purchasing Agent shall publish an invitation for bids in accordance with the requirements of Utah Code § 63G-6a-112, meaning that the Purchasing Agent shall publish the bid at least seven (7) days prior to the date set for the opening of bids on the City's website or on a website owned, managed by, or provided by the State of Utah for the posting of public procurement notices. Purchasing Agent may, but is not required to, publicize the invitation for bids in a newspaper of general circulation within Kearns. The Purchasing Agent may reduce the seven (7) day period described in this subsection in accordance with Utah Code § 63G-6a-112.
- D. Opening of Bids. Bids shall be opened publicly in the presence of one or more witnesses at the time and place designated in the invitations for bids. The amount of each bid and any other relevant information, together with the name of each bidder, shall be recorded. The record and each bid shall be open to public inspection.
- E. Acceptance of Bids. Bids shall be unconditionally accepted without alteration or correction, except as authorized in this policy. Bids shall be evaluated based on the requirements set forth in the invitation for bids.
- F. Corrections and Withdrawals of Bids. Correction or withdrawal of inadvertently erroneous bids before or after award, or cancellation of awards or contracts based on such bid mistakes, shall be permitted. After the bid opening, no changes in bid prices or other provisions of bids prejudicial to the interests of the City or fair competition shall be permitted. All decisions to permit the correction or withdrawal of bids or to cancel awards or contracts based on bid mistakes shall be supported by a written determination made by the Purchasing Agent.
- G. Contract Negotiation and Awards. The contract shall be awarded with reasonable promptness, by written notice, to the lowest bidder whose bid meets the requirements and criteria set forth in the invitation for bids, subject to the Purchasing Agent concluding any negotiations that may be needed to finalize the contract.
- H. Construction Contracts. The City shall follow the procedures contained in Utah Code § 11-39-101 et seq. for the letting of contracts for the construction of building improvements or public works projects as defined therein and any provision of this policy that conflicts with the provisions of Utah Code § 11-39-101 et seq. shall not apply to the letting of contracts covered by this Chapter of state law.

3.16.050 Prior Council Authorization

The Purchasing Agent shall secure the Council's prior authorization before purchasing a procurement item that is neither a small purchase under nor an emergency purchase under this Chapter.

3.16.060 Cancellation and Rejection of Bids

An invitation for bids, a request for proposals, or other solicitations may be canceled, or any or all bids or proposals may be rejected, in whole or in part, as may be specified in the solicitation, when it is in the best interests of the City. The reasons shall be made part of the contract file.

3.16.070 Use of Competitive Sealed Proposals in lieu of Bids (Requests for Proposals).

- A. Competitive Sealed Proposals. When the Purchasing Agent determines in writing that the use of competitive sealed bidding is either not practicable or not advantageous to the City, a contract may be entered into by competitive sealed proposals. Competitive sealed proposals are most appropriately used for professional service-type contracts.
- B. Solicitation of Competitive Sealed Proposals. The request for proposals or requests for qualifications shall state the relative importance of price and other evaluating factors:
 - 1. Proposals shall be solicited through a request for proposals or a request for qualifications; and
 - 2. Public notice of the request for proposals shall be given at least ten (10) days prior to the advertised date of the opening of the proposals.
- C. Opening of Competitive Sealed Proposals. Proposals shall be opened to avoid disclosure of contents to competing bidders during the process of negotiation. A register of proposals shall be prepared and shall be open for public inspection after contract award.
- D. Fair and Equal Treatment. Bidders shall be accorded fair and equal treatment with respect to any opportunity for discussion and revision of proposals, and revisions may be permitted after submissions and prior to award for the purpose of obtaining best and final offers. In conducting discussions, there shall be no disclosure of any information derived from proposals submitted by competing bidders.

- E. Awards for Competitive Sealed Proposals. Awards shall be made to the person whose proposal is determined, in writing, to be the most advantageous to the City, taking into consideration price and the evaluation factors set forth in the request for proposals. No other factors or criteria shall be used in the evaluation. The contract file shall contain the basis on which the award is made.

3.16.080 Architect-Engineer Services

Architect-engineer services are qualification-based procurements. Requests for such services should be publicly announced. Contracts should be negotiated by the Purchasing Agent based on demonstrated competence at fair and reasonable prices.

3.16.090 Contractor Eligibility

To be eligible to receive a contract from the City under this Chapter, a bidder shall:

- A. Be in good standing with the City;
- B. Comply with Section 3.16.170;
- C. Possess the required licenses and other authorizations necessary to conduct business in the State of Utah and to provide the services that are the subject of the procurement; and
- D. Not be debarred by the City or the State of Utah.

3.16.100 Determination of Non-responsibility of Bidder

- A. Determination of non-responsibility of a bidder shall be made in writing. The unreasonable failure of a bidder to provide the required information at the outset or promptly supply information in connection with an inquiry with respect to responsibility may be grounds for a determination of the bidder's non-responsibility. Information furnished by a bidder pursuant to this section shall not be disclosed outside of the purchasing division without prior written consent by the bidder.
- B. If the City terminates a contract with a bidder for cause and solicits proposals to replace the bidder, any additional proposals from the terminated bidder submitted in response to the City's solicitation to provide the same service shall be considered to be nonresponsive, unless the Purchasing Agent finds that good cause exists to consider the terminated bidder.

3.16.110 Cost-Plus-A-Percentage-Of-Cost Contracts Prohibited

Subject to the limitations of this section, any type of contract which shall promote the best interests of the City may be used, provided that the use of a cost-plus-a-percentage-of-cost contract is prohibited. A cost-reimbursement contract may be used only when a determination is made in writing that such contract is likely to be less costly to the City than any other type or that it is impracticable to obtain the supplies, services, or construction required except under such a contract.

3.16.120 Appeals

A. Filing of Appeals. Any actual or prospective bidder who has standing to file an appeal and is aggrieved in connection with the solicitation or award of a contract may appeal the procurement by filing a written protest with the City Administrator in accordance with the following:

1. To have standing to file an appeal under this section, the appellant shall:
 - a. Satisfy the requirements of Sections 3.16.090 and 3.16.110 on or before the date the City awarded the contract for the procurement that is the subject of the appeal; and
 - b. Have a reasonable likelihood of receiving the award if the error complained of in the appeal is corrected;
2. The appeal shall include the appellant's name, mailing address and daytime telephone number, the signature of the appellant or the attorney for the appellant, and the date the appeal is signed;
3. The appeal shall describe in reasonable detail the relief sought, a statement of facts and a recitation of the reasons and legal authority in support of the protest sufficient to permit review; and
4. Appellants shall submit their appeals prior to the closing date for receiving bids or proposals unless the appellant did not know and could not reasonably have known of the facts giving rise to the appeal prior to such time, but in any event, all appeals shall be submitted within five (5) business days after the closing date for receiving bids or proposals.
5. The appellant bears the burden of proof and must show by a preponderance of the evidence that the City's actions with respect to the procurement were arbitrary, capricious, or illegal.

B. City Action on Appeals

1. The City Administrator may request additional information from the appellant or from other persons to make a determination.

2. The appellant shall provide all information requested by the City Administrator reasonably necessary to decide the protest except information which is protected from disclosure by law, or which could reasonably be expected to result in unfair competitive injury to the protestor in spite of the protections for the appellant provided by law.
3. The City Administrator shall review and hear the appeal. No later than (30) thirty business days after receiving a notice of appeal, the City Administrator shall schedule an administrative hearing on the appeal. Unless otherwise agreed to by the Purchasing Agent and the appellant, the administrative hearing shall be held no sooner than (5) five business days and not later than thirty (30) business days from the date of the filing of the appeal.
4. At the administrative hearing before the City Administrator, appellant and representatives of the City shall be allowed to testify, present evidence, and comment on the issues. The City Administrator may allow other interested persons to testify, comment or provide evidence on the issues.
5. No later than thirty (30) business days after the administrative hearing, the City Administrator shall issue a signed order either granting the appeal in whole or in part or upholding the determination of the Purchasing Agent in whole or in part. The order of the City Administrator shall include:
 - a. The decision, and any reasons for the decision the City Administrator provides; and
 - b. A statement that the appellant may appeal the City Administrator's decision to the City's Administrative Law Judge within ten (10) business days of the City Administrator's decision.
6. If the City Administrator fails to issue a decision within (30) thirty business days after the administrative hearing, said failure shall be considered the equivalent of an order denying the appeal.
7. The City Administrator may appoint another person to fulfill his or her respective responsibilities described in this Section.

C. Administrative Law Judge

1. The Administrative Law Judge shall review all requests for review or appeals filed on a decision the City Administrator makes under this Section.. The appeal will be on the record and may not be on a a de novo basis. If, however, the City Administrator fails to issue a decision under this Section for any reason, the Administrative Law Judge shall review the appeal de novo.

2. The City Administrator may, in the City Administrator's sole discretion, refer any request for review or appeal filed under this Chapter to the Administrative Law Judge pursuant to Section 1.03.050, in which case the City Administrator may not be required to render a decision.
 3. The Administrative Law Judge shall hear and act upon all requests for review, appeals, or referrals from the City Administrator that are made under this Chapter in accordance with Title 1, Chapter 3 and the applicable provisions of this Chapter. In the event of a conflict between Title 1, Chapter 3, and this Chapter, the provisions of this Chapter shall govern as applied to appeals the Administrative Law Judge reviews under this Chapter.
- D. Final Action. A written decision issued by the City Administrator shall constitute the City's final administrative action on an appeal unless the appellant appeals the decision to the Administrative Law Judge. If the appellant appeals the decision to the Administrative Law Judge, or if the City Administrator refers the appeal directly to the Administrative Law Judge under this Section, the Administrative Law Judge's written decision shall constitute the City's final administrative action on the appeal.

3.16.130 City Actions During Pendency of Appeals.

The City may proceed with a procurement that is subject to an appeal filed under this Chapter, including finalizing contracts with the selected bidder, except that the City Administrator may suspend the procurement process for so long as the City Administrator determines appropriate.

3.16.140 Remedies for Solicitations or Awards in Violation of Law.

- A. Prior to Bid Opening or Closing Date for Receipt of Proposals. If prior to the bid opening or the closing date for receipt of proposals, the Purchasing Agent, after consultation with the City Attorney, determines that a solicitation is in violation of federal, State, or local law, then the solicitation or proposed award shall be canceled or revised to comply with applicable law.
- B. Prior to Award. If after a bid opening or the closing date for receipt of proposals, the Purchasing Agent, after consultation with the City Attorney, determines that a solicitation or a proposed award of an agreement is in violation of federal, State, or local law, then the solicitation or proposed award shall be canceled.
- C. After Award. If after an award, the Purchasing Agent, after consultation with the City Attorney, determines that a solicitation or award of an agreement was in violation of applicable law, then:
 1. If the person awarded the agreement has not acted fraudulently or in bad faith:

- a. The agreement may be ratified and affirmed, provided it is determined that doing so is in the best interests of the City; or
 - b. The agreement may be terminated and the person awarded the agreement shall be compensated for the actual costs reasonably incurred under the agreement, plus a reasonable profit, prior to the termination; or
 - 2. If the person awarded the agreement has acted fraudulently or in bad faith the agreement may be declared null and void or voidable, if such action is in the best interests of the City.
- D. Acting in Violation of this Ordinance. Any violation of this Chapter shall be grounds for disciplinary action, and civil and criminal prosecution at the discretion of the City Prosecutor.

3.16.150 Ethics in Public Contracting

- A. Conflicts of Interest Prohibited. No person involved in making procurement decisions may have personal investments in any business entity which shall create a substantial conflict between their private interests and their public duties. The Purchasing Agent and all applicable City officials, staff, and contractors shall comply with the City's ethics and nepotism ordinances, policies, and other applicable requirements when making procurement decisions or otherwise implementing this Chapter.
- B. Penalties. In accordance with applicable state law, any person involved in making procurement decisions is guilty of a felony if the person asks, receives, or offers to receive any emolument, gratuity, contribution, loan, or reward, or any promise thereof, either for the person's own use or the use or benefit of any other person or organization from any person or organization interested in selling to the City.

3.16.160 State Procurement Code

- A. The City has adopted this Chapter pursuant to its authority under Utah Code § 10-6-122. Except when otherwise required by law, the State of Utah's procurement code shall not apply to procurements the City makes pursuant to this Chapter.
- B. The City Administrator may, in their sole discretion, elect to use certain provisions of the State Procurement Code if this Chapter does not address the matter in question, provided that this Chapter shall control over any conflicts between this Chapter and the State Procurement Code.

CHAPTER 3.17 -- CITY BUDGET PROCESS

3.17.010 Purpose

This Chapter shall define the process of preparing and adopting the annual fiscal year City budget. The Chapter further defines the Council's responsibilities, and the City's relationship with the MSD in the budget process as defined by law.

3.17.020 Definitions

For the purposes of this Chapter, the following definitions are in addition to the definitions in Section 1.02.060 and shall control:

- A. "Final budget" means the budget finally adopted by the Council pursuant to its legislative authority.
- B. "Proposed budget" means the budget prepared in the format of the tentative budget by the Council and forwarded to the MSD Board of Trustees for review and approval.
- C. "Tentative budget" means the budget approved by the MSD after submittal of the proposed budget by the Council to the MSD.

3.17.030 Authority

This Chapter is based upon the requirements of state law regarding the administration and operation of City, the responsibilities of the county and the MSD in the City's, and the Uniform Fiscal Procedures Act for Cities.

3.17.040 Tentative Budget

- B. The Council, through the assistance of the City Administrator if appointed, shall prepare and submit to the MSD a proposed budget in sufficient detail, content and scope and in a manner and on forms provided by the MSD pursuant to the Uniform Fiscal Procedures Act for Cities. The Council shall submit the proposed budget to the MSD before the deadline established by the MSD Board of Trustees. The time of submittal of the proposed budget may be extended if requested by a majority of the MSD Board of Trustees.
- C. Prior to submission of the proposed budget to the MSD, the Council shall review the proposed budget for consistency with statute, ordinance and fiscal and budget policies including the Uniform Fiscal Procedures Act for Cities and recommend modifications where necessary after consultation with the MSD Board of Trustees, other cities, and affected county offices, agencies and departments.

- D. The proposed budget shall projected revenues, projected expenditures, and budget requests for all funds, along with any additional items deemed necessary by the Council, with recommendations as the Council feels appropriate.
- E. In preparing the proposed budget, the Council may include a budget for capital improvements and maintenance in the capital improvements fund.
- F. After the Council submits the proposed budget to the MSD, the Council and MSD Board of Trustees may hold joint meetings for purposes of preparing the tentative budget, which the City's budget officer will do no later than the first regularly scheduled Council meeting in May.
- G. The Council may revise and update revenue projections and expenditure projections throughout the budget process and fiscal year and shall notify the MSD as soon as possible of any adjustments to the revenue projections in the proposed, tentative, and final budgets.
- H. The Council shall adopt the tentative budget in accordance with state law.

3.17.050 Council Budget--Final Budget

After the MSD approves a tentative budget for the City, the Council shall adopt a final budget for the City on or before June 30 of each year for the following fiscal year. The Council shall set the date for the time and place of a public hearing to adopt a final budget, and cause notice of the same to be published and posted in accordance with state law. The Council shall also make the tentative budget available to the public in accordance with state law. All interested parties shall have an opportunity to be heard at the public hearing pursuant to rules established by the Council. The Council may make adjustments to the budget after the public hearing on the final budget. The Recorder shall file with the state auditor a certified copy of the final budget within thirty (30) calendar days after adoption.

3.17.060 Budget Limitations

The Mayor and Council shall not propose or adopt any proposed, tentative or final budget or make any appropriation in the final budget of any fund that exceeds the estimated expendable revenue, including fund balances and reserves, of the fund for the fiscal year as required by state law.

3.17.070 Final Adopted Budget Amendments

The Council may amend a final fiscal year budget pursuant to law and any budget increase in any fund shall require five days' notice and a public hearing except under emergency conditions declared by the Council. If the Council amends the budget, the MSD shall amend the budget to account for the same.

3.17.080 Budget And Financial Policies

The Council may adopt policies or issue orders not inconsistent with law or this Chapter in regard to the budget process.